

Meeting Minutes

Planning Board

Wednesday, March 3, 2021

Virtual Meeting via Zoom

APPROVED

Members Present: Peter Paicos, Chair; Leslie Matthews; Woody Knight; Larry Murphy; George Morse; Mary Stohn (Associate Member)
Staff Present: Martha Taylor, Town Planner; Emily Noble, Planning Board Administrator

P. Paicos opened the Planning Board meeting at 6:30 p.m. and verified that all members and persons expected to be present were in attendance.

He then announced that this March 3, 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. Chris York, Millennium Engineering, Inc. – Submission of ANR Plan for proposed Lot C at 131 Newburyport Turnpike, Map R36, Lot 23; Owner/Applicant: Stowaway Storage Newbury, LLC, dba Newbury Self Storage, William DiFrancesco, Manager

Chris York, Millennium Engineering, appeared before the Board representing the Applicant, William DiFrancesco, who was also present at the meeting. C. York said that Mr. DiFrancesco is proposing to divide off a piece of his property, shown on the Plan as Lot C, which is just to the south of his business, Newbury Self Storage. The lot is four and a half acres total, with almost three acres of upland and 431 feet of frontage. That leaves his property with 49 acres.

M. Taylor said the plan has been reviewed a couple of times and all the issues addressed. She said that C. York might want to point out any areas of ledge, the location of access onto the lot from Route 1, and the existing guardrail on the front property line.

C. York pointed out the guardrail. He said the Assessor assigned a new address for the lot – 141 Newburyport Turnpike. He said there isn't any ledge that they know of, but there are areas where the slope is greater than 15%, identified by a dashed line on the Plan.

M. Taylor asked if they have any discussions with MassDOT about a curb cut here. C. York said not yet. He said he imagined it would be similar to the curb cut into Newbury Self Storage next door, and that MassDOT may require a small turning lane. He said he doesn't anticipate issues with sight lines.

P. Paicos asked about the location of telephone poles. C. York pointed them out.

W. Knight asked where the upland is and C. York pointed it out.

Motion: A motion was made by M. Stohn and seconded by L. Matthews to endorse the ANR Plan for proposed Lot C at 131 Newburyport Turnpike, Map R36, Lot 23; Owner/Applicant: Stowaway Storage Newbury, LLC, dba Newbury Self Storage, William DiFrancesco, Manager. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

B. Public Hearing – Site Plan Review Application, 2 and 8R Old Point Road, Map U02, Lots 154 & 153; Owner/Applicant: The Cottages Commercial, LLC, Vincent Godin, Manager (continued from February 3, 2021)

P. Paicos opened the continued public hearing and said that the Board had had a site walk on February 22. He asked members if they had any comments from the site walk. L. Murphy noted that it had been very helpful.

P. Paicos asked M. Taylor about the status of the revised plans and Stormwater Report. M. Taylor said that she received them last Friday morning and they had been distributed to the Board. She said she received a second peer review letter from Joe Serwatka today. The Applicant was then invited to present the revised drawings.

Steve Sawyer, Design Consultants Inc., said he is here with Vince Godin, the Applicant; Joe the Architect, the Architect for the project; and Mike Rettenmeier, MDLA, the Landscape Architect. S. Sawyer shared his screen and said one of the major plan changes is at the intersection of Old Point Road and Plum Island Boulevard. He said the original design showed the proposed work extending into the right of way, which created some permitting issues. They determined it would be simpler to keep all improvements on their property only. He said they are still proposing a solid white striped line to differentiate the travel lane from the pedestrian way on the edge of the road from Plum Island Boulevard wrapping all the way around the corner onto Old Point Road.

Regarding stormwater, he said there were some peer review comments regarding directing water to the rain gardens. They revised the grading to ensure that all stormwater flows to rain gardens – the majority flows to the rain garden along Plum Island Boulevard, which is designed to treat stormwater before it flows into the catch basin on Plum Island Boulevard. He said there were also some comments regarding pretreatment, which they are now providing – sediment and TSS now are in full compliance with the DEP Stormwater regulations.

S. Sawyer said that while this is a redevelopment project, for all intents and purposes they are in full compliance with the DEP Stormwater regulations with respect to their drainage improvements. Currently there are no improvements.

S. Sawyer then addressed a comment from the last public hearing and from the peer review about snow storage. He said if the restaurant were to be open in the winter months, there would only be about 25 seats, so parking requirements would be significantly diminished. He said they have the whole right bay to push snow and the

whole gravel area. Given the reduced demand in the winter for parking, they will have ample space to store snow.

He then addressed concerns that had been raised about the first parking spots possibly backing out into Plum Island Boulevard. He said that cars will not back out onto Plum Island Boulevard and that the movement is solely on their property. He said it is of note that many commercial establishments on Plum Island have basically pull in parking – cars back out right into the Road when exiting parking spots. This is a substantial improvement over that.

S. Sawyer then addressed a peer review comment regarding the exit. He that said instead of running gravel right up to the edge of Old point Road, they have provided a bituminous apron. If there is any sediment on the tires, it will tend to wear off prior to exiting the site. The apron is tilted to direct stormwater into the rain garden right there.

S. Sawyer then addressed a comment concerning sight distance arising from the proposed plantings on the corner of Plum Island and Old Point. He showed a plan that demonstrates that there is ample sight distance.

S. Sawyer then noted that one of the comments that came back from peer review is that they did not do any test pits at the two locations for the rain gardens. He said that they provided one test boring that had been done previously. He said there were a plethora of borings throughout the site with many observation wells with groundwater readings and the reading were all below 3.5 below grade. He said it is ample proof that they don't have an issue with groundwater interfacing with the bottom of their rain gardens. He said the soils out there are coarse medium sand. He said he provided the package of all the borings to J. Serwatka. He suggested that it would make sense to do a couple of test pits with a Certified Soil Evaluator at the beginning of demolition when they will have heavy equipment on site. They would then report their findings back to M. Taylor and J. Serwatka to confirm suitability. He said J. Serwatka sent an email today agreeing with this suggestion. S. Sawyer concluded by saying that was the only item from the peer review that was left unaddressed.

He then said that some changes to the landscape design had been made and that Mike Rettenmeier, from MDLA, would be speaking to those on behalf of their team. M. Rettenmeier pointed out items that had been revised. First, at the intersection of Plum Island and Old Point they pulled all the proposed plantings, etc., back to be within the property line – the design is similar to what was previously proposed, but all inside their property line. He then said they updated the plantings in the bioretention areas to handle situations where there might be salt-water exposure.

He then moved to the lighting plan. He said that they updated the lighting at the western exit to Old Point Road to provide safer light levels. He noted also that they modified the bollard lighting at the sand pit area near the intersection to coordinate with the relocation of everything to be inside the property line.

He then addressed a request that had been made to provide some planting details. He said shrub and typical groundcover plantings are shown on the last sheet of their details, along

with a permeable paver detail. He said there are also a few photos of the proposed fencing.

S. Sawyer noted one other landscape item that had been changed. He said that to address concern that the planted sand berm might not hold together and might blow away, they have provided a granite planting curb to lift it up and thereby created a very subtle slope. He said also they will also put down coconut fiber to hold everything in place until a good root mass develops to hold everything together. He said this provides a nice separation between the roadway and their project.

Joe Stromer, Architect, said the only thing that he added to the architectural drawing based on comments was a hand sink at the outdoor toilet area.

V. Godin said that there had been questions about where the propane tank would go, so that has been shown on the plan, surrounded by a fence. Regarding the proposed fire pit, they decided after some discussion with the Fire Department that the safest route to go would be a hard line connection to a propane tank, so they are proposing a propane tank next to the shed which will be permitted and inspected annually that will connect to the fire pit.

L. Murphy said he is not sure if he completely understands the issue around the rain garden test pits. He asked if that was just to determine the ground water level. S. Sawyer said typically you want to make sure rain gardens drain dry between rain events. He noted that he has designed rain gardens without test pits in the past because typically they are only eight to twelve inches deep. L. Murphy asked if they have any surprises when they do the test pits during construction whether that would mean they would have to come back before the Board. S. Sawyer said yes, if the groundwater was going to be coming up into the basin they would have to rethink this. He said he wouldn't be doing this if he wasn't confident that they wouldn't see groundwater at less than two feet from grade.

V. Godin said the reason they have that confidence is that they do have the results of ten other test pits in the surrounding area; they just do not have information from test pits in the exact locations of the rain gardens.

G. Morse asked whether the whole area shown on the plan as six spaces and 22 foot drive aisle would be a snow drop zone. S. Sawyer said yes it could be. He said he likes this area for snow storage a lot because as the snow melts, it runs across the property and gets a lot of treatment before it even makes it to the rain garden.

L. Matthews asked what the purpose of the shed is. V. Godin said in addition to being general storage, they plan to connect water to that location for the hand sink. In addition, on the other side they plan to have a temporary food and drink service station for the times when the restaurant is a little bit busier, nothing permanent. They will also connect electricity to the shed.

W. Knight asked if the rain garden by the exit will impede line of sight. S. Sawyer said no.

M. Stohn asked if the water table had risen at all. S. Sawyer said he doesn't believe so and that for the most part the water table on the Island is more tide based. He said he wouldn't see any reason for groundwater to rise substantially here.

P. Paicos asked M. Taylor to confirm that the project is in a flood plain. M. Taylor said yes, it is not the velocity zone, but the AE zone.

P. Paicos asked what the proposed hours of operation are. M. Taylor said that V. Godin sent an email last week saying he would like the flexibility to be open from 9 a.m. to midnight.

P. Paicos asked if the propane tanks will be secured to the ground. S. Sawyer said they would most likely be secured to the ground with a fence around them.

P. Paicos said he is very comfortable with the 13 compact spaces, since a smaller car is going to have a smaller turning radius and won't have to go too far towards Plum Island Boulevard to back out. His concern is the first spot of the 14 regular spaces, which could have a pickup truck parked in it. He asked if it would make sense to eliminate that first space so that there is plenty of room to back out.

S. Sawyer said the car he has depicted is a 17 foot long sedan. He said if that space is eliminated, basically they lose three restaurant seats. V. Godin said his only comment on that would be that cars parked at the Plum Island Grille back out directly onto the road, and that it is the same at their store, the Beach Coma, and Plum Island Provisions. He noted that Mad Martha's doesn't even really have any parking. He said that since pretty much every business on the Island has parking spaces where cars have to back directly onto Plum Island Boulevard, he would ask if possible for a little leeway on that parking spot. He said the only thing they could do is maybe turn it into a compact spot.

P. Paicos said he would think so. He said just because there are preexisting conditions, doesn't mean they want to continue that thought process. S. Sawyer said he may also be able to move all the spaces down a couple of feet.

P. Paicos said he needs to have a better understanding of the hours of operation, including weekend, and winter hours. V. Godin said he is asking for that flexibility because a lot is going to depend on the demand from the people on the Island. He said they want to leave the possibility open for having brunch on the weekends in the summer. He said on the late side, he is sensitive to this, but at the same time he doesn't want to limit themselves if someone wanted to rent out the restaurant for an event – he would like to be able to have slightly longer hours. He said they are just asking for some flexibility to figure out operations, since this is new to the Island and there are a lot of unknowns about where and when the demands are going to be. He said he is asking the Board to trust that he, as the owner of the properties around this site, is going to do something that is appropriate for the area.

P. Paicos said he understands the desire for flexibility and the unknowns. He said the hours of operation are going to inform the traffic concerns that might arise. He said if he doesn't have a good appreciation for what the hours are going to be like and what the

volume is going to be like, then he doesn't feel comfortable understanding the traffic needs at the site.

V. Godin said in the summer the hours would be lunch through dinner – they won't be early in the day unless it is for brunch. He said once they get to the side seasons, Spring and Fall, the hours will be pulled back and then in the Winter, if they do stay open, it will be more dinnertime hours except for on the weekends.

P. Paicos said he is still not comfortable with the traffic concerns without knowing what the hours of operation will be. He said he almost thinks they may need to have some traffic peer review of this, just to make sure there are no problems in the future.

V. Godin said that that makes sense. He said he knows they did do a traffic analysis to address peak hour traffic for a restaurant. S. Sawyer said they did a trip generation analysis based on 164 seats, with calculations based on weekday and weekend traffic. He said that for the analysis, they didn't have the restaurant open in the morning, but they wouldn't anticipate much traffic in the morning. If the restaurant were open for brunch, it wouldn't start until 9 a.m. or so, and a brunch operation would not be generating peak conditions there. It is a moderate traffic generator.

P. Paicos said there is a restaurant across the street and an ice cream shop and bar down the street and said he just wants to make sure it all fits and flows. L. Murphy agreed that they needed to get a handle on traffic concerns.

L. Matthews said she thinks it would be a different kind of traffic in the morning and the ability to serve alcohol would change it as well. She said the traffic changes a lot with the seasons and she mentioned there is a tremendous amount of bicycle traffic.

W. Knight said he could see this being a popular brunch location.

M. Stohn said a traffic study would be a good idea – this is a tremendously busy place, particularly in the summer. But she noted she is concerned because restaurants are taking a hit everywhere and is reluctant to put on too many constraints. She said she wants to make sure they succeed – a good restaurant on that corner, which is an eyesore now, is a plus.

G. Morse said he thinks the one way traffic flow in site does help.

P. Paicos asked M. Taylor what the timeline on getting a traffic consultant to take a look would be. She said she could talk to MVPC (Merrimack Valley Planning Commission) to see if they have some counts in that area. She said if they were to get a peer review traffic study, she imagines that would be a couple of weeks.

P. Paicos said he understands this might be frustrating for the applicant, but he wants to make sure they don't regret not doing it. He directed M. Taylor to meet with S. Sawyer and V. Godin to identify the components that they would want to take a look at, try to get numbers from MVPC. He said he thinks this may help alleviate some of the concerns from residents on the island.

P. Paicos then opened the public hearing to public comment, especially concerns, comments, or questions that had not already been brought up.

M. Taylor said she received a written comment from Steve Mangion this morning.

Steve Mangion, 21 14th Street, said the concept of staying open until midnight is new. He said his thoughts are not well thought out but he knows in the neighborhood quiet hours tend to come in around 10 p.m. He said he wouldn't support something being open until midnight given the traffic and if there will be alcohol consumption. He said he will generate a written comment since he is just hearing this tonight.

He reiterated that the traffic considerations need to take bicycles into account because there is huge bicycle traffic.

He said he has seen how the traffic can back up from the intersection of Plum Island Boulevard and Northern Boulevard to the intersection of Plum Island Boulevard and Old Point Road and beyond.

He said he is glad to see that there is an outdoor hand washing sink being proposed. He said a mobile bathroom trailer would be a lot more attractive than port-a-potties and he hopes more concern will be given to that.

He again noted, as he has in the past, that all of the plans that have been presented to the different Boards need to be synchronized.

He said he is not clear on whether there is outdoor alcohol consumption and said he would not support it.

He concluded by saying that it is the traffic and hours of operation that have him thinking. He said Sunday brunch can be a very popular thing – he said he lives close to Mad Martha's and sees people coming down Saturday and Sunday mornings.

P. Paicos asked if Board members had any further questions or comments. All indicated no.

S. Sawyer asked whether starting off with the hours of operation from 11 a.m. to 11 p.m. would sway the need for additional traffic study. P. Paicos said he understands where he is coming from, but he wouldn't want to limit them if they wanted to do a weekend brunch. He said he thinks the Board is leaning towards wanting a little more traffic insight.

P. Paicos then asked to look at dates to continue.

Motion: A motion was made by L. Murphy and seconded by M. Stohn to continue the public hearing Site Plan Review Application, 2 and 8R Old Point Road, Map U02, Lots 154 & 153; Owner/Applicant: The Cottages Commercial, LLC, Vincent Godin, Manager to March 24 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; M. Stohn, yes.

C. Concurrent Public Hearings – 15 Coleman Road (Map R02, Lots 12 & 13);

Owner/Applicant: Zendko, LLC, Tom Zahoruiko, Manager

1. OSRD Special Permit Application

2. OSRD Definitive Subdivision Plan Application

P. Paicos opened the public hearing. L. Matthews read the two public hearing notices published in the Newburyport Daily News on February 15 and 22, 2021.

P. Paicos confirmed that M. Taylor had received all the green card receipts from the abutter mailings and the Daily News tear sheets.

Tom Zahoruiko, Principal at Zendko LLC, and Philip Henry from Civil Design Group were at the meeting representing the Applicant team. T. Zahoruiko then presented the project. The site is 15 Coleman Road, a 32 acre site which contains a 1787 traditional home with an adjacent 40 by 36 foot barn and a small shed workshop and a more recent single bay garage building. The surrounding grounds consist of informal manicured grassed areas and farm paths which lead into more mature forested areas out back, a bisecting wetland which is traversed by an existing farm road crossing that provides easy access to the rear of the site. There is gently rolling terrain crisscrossed by paths and stone walls and vegetated with a variety of mature evergreen and deciduous trees. There is a beautiful understory dominated by low growing blueberries and offering serene interior views of the property. The existing street scene is dominated by the buildings along with stone walls, notably including the Witch Stone, and a few mature and compromised trees. He said the site is bordered by undeveloped property owned by the Governor's Academy, open farm fields, and a few residences.

He said the goals of the project, consistent with his personal history of development, are to preserve and enhance the appropriate elements of the existing buildings, to protect the wetland resource and the forested areas beyond, and to sensitively design and develop a small residential neighborhood of high quality reasonably sized homes. He said he would like to emphasize that, thanks to the OSRD, what is being preserved or untouched on the majority of the property is more significant than what is being touched.

He said as part of the OSRD Special permit submission they presented a conventional subdivision plan showing a basic maximum number of 5 lots. This is the yield plan and complies with the Town's Zoning and Subdivision Rules and Regulations with consideration of wetland resource area and soil conditions. The conventional plan disturbs a large portion of the site. It requires an enhanced wetland crossing as well as alterations for housing units in the pristine upland beyond the wetland. That plan provides limited satisfaction of the project goals. He said they then devised the 7-lot OSRD special permit plan, which is really the subject of these applications. He said the 7-lot density is proposed, pursuant to the density bonus provisions of the OSRD bylaw, which allows the additional two lot bonus due to the large amount of proposed open space. He said those calculations are detailed in a table in the plan set. One of the seven lots contains and preserves the existing home and barn and the other lots are contained in the upland closest to Coleman Road. Access to the lots is provided by a 400 foot long cul-de-sac, with access to the open space also from the cul-de-sac. He said the 27.2 acres of open space, which constitutes 86% of the parcel, is 65% upland. He said the OSRD plan

requests a few waivers from the conventional subdivision regulations, which are all listed on the plan set, but satisfies all critical elements for public safety and public service access. The site was crafted to maintain a nearly balanced site, due to the compact area of lots and homes. They propose a sloped granite curb and a very simple conventional drainage plan, which results in less impactful grading and site alterations.

An RDA was submitted to the Conservation Commission – this is being superseded this week by an NOI application. He said a common septic system has been designed and will be submitted to the Board of Health as soon as they feel the lotting plan is firm. They are proposing fee ownership for the homes and lots and an HOA for the common septic and acceptance of the way as public. The main house and barn are to remain in place. The workshop is proposed to be moved or recreated in a permanent location on Lot 7, with a strong presence on Coleman Road, maintaining the current multi building aesthetic. The site will be serviced by municipal water, underground cabling, and a common septic system. He said natural gas is available on Coleman Road, but service to the development is subject to the provisioning policies of that utility company.

T. Zahoruiko said that Phil Henry, Civil Design Group, is available to answer any questions tonight. He asked if they could follow the Board and public input with the opportunity to respond to questions and comments and also to discuss preliminary feedback from the Peer Review Consultant. He said they don't need to discuss all the comments, but they would like some direction from the Board on some of them so that they can respond appropriately.

P. Paicos asked if they had had time to review the comments from the Peer Reviewer, Joe Serwatka. T. Zahoruiko said yes they have, many of them are minor, some of them are interpretive, and some are worth a discussion to get some direction on them.

W. Knight asked for a clarification on whether the right of way was proposed to be public or private. T. Zahoruiko said it is being proposed as a public way. He said he knows that is a discussion topic.

P. Paicos opened the hearing to public comment.

Mark Cutter, 23 Coleman Road, said that he has lived here for 20 something years and he wanted to thank the Woodbury family for their consideration when selling this property. He said he lives at the end of the water line and any time there is something going on, if they are flushing the hydrants, they seem to suffer from it. They get a lot of debris and low pressure. He said he doesn't know what adding six houses will do to affect the water. He also asked about parking and traffic related to people using the open space – he was concerned about increased traffic and people parking on the street. He also said they lose power a lot, he said that may not be their concern, but asked if six more houses will affect the grid. He said he is more concerned with the water and the traffic. He asked if there was a traffic study done. He said the entrance to the driveway is across from Longbrook, which is a very dangerous intersection.

Bill Manthorne, 79 Elm Street, said he appreciates the open space. He asked if they are planning on creating a trail system or if it will be left natural with the natural paths that

are already there. He said he sees there is some water remediation, but he is wondering if there is any concern about adding to the wetlands.

T. Zahoruiko said if you have ever been back there are wonderful trails, they certainly could be cleared a bit better in a few places. He certainly can enhance them if that is needed, but he said there is a balance. B. Manthorne said he was hoping he would say they would leave it more natural.

T. Zahoruiko said in response to the drainage question that, when they do new development like this, the drainage analysis that they do has to essentially prove that they don't increase the rate or volume of runoff to any adjacent site. He said that is not just from their own engineer – the Town's consulting engineer is hired to review and confirm that is the case.

T. Zahoruiko then answered M. Cutter's questions. He said that they had discussions early on to make sure that the water department felt that there was sufficient volume and pressure out here. They indicated that it was sufficient. He said he has lived at the end of a line before himself, he knows about the stirring up at the end of the line. He said if the end of the line isn't looped, then it doesn't self clean. He said he doesn't know if there is anything to be done about that, other than the Town being vigilant about flushing that line. He said it certainly shouldn't be exacerbated by anything they do with the development.

He said similarly, regarding the issue of losing power, he doesn't think adding the houses has an impact on that. The capacity is there. He said he knows there are a lot of trees, he said they had portions of one large tree come down and one on the edge of the right of way broke in half. He said it is not an unusual situation in rural environments, but adding so few homes should not have any effect on that.

T. Zahoruiko said in reference to traffic that the visibility on the outside of the curve on their side is dramatically better than the other side, which is very constrained because of the curve. The visibility on their side is acceptable for the speed limit, as well as for higher speeds which people tend to travel on that road. He said the access for the open space is going to be a bigger discussion so they should continue that for later.

Dina Sullivan, 21 Coleman Road, said she is also an abutter. She said her concern with her property are water issues. They have had issues since they have owned their property, since 1995, with their driveway flooding. She said she wants to make sure the building of those homes is not going to create any water issues. She also wants to know if it is going to have any effect on the water table because they are on a well and their well water seems to be decreasing.

Phil Henry said he could address her questions. He said at 21 Coleman Road she appears to be up gradient from the property. The property is actually flowing in a westerly direction opposite from her home. The stormwater flow today and tomorrow should not affect your property because they are down gradient from her property.

D. Sullivan said that is not what they have experienced. She asked about whether they see any impact on the water table.

P. Henry said they don't. He said this is a small development with respect to the greater region. He said he doesn't anticipate any negative effects on ground water at all.

Danby Whitmore, 61 Glen Street, Rowley, said she is excited that this is going through with an open space plan. She asked if they were going to use Town or well water and she asked if motorized vehicles would be banned from the open space. T. Zahoruiko said that they will be using Town water. He said they had not discussed it, but banning motor vehicles is a very practical idea, he assumed that would be something that would generally be preferred. He said they are ok with that condition and hopefully that is something the Town would prefer.

Martin Krugman, 19 Coleman, said that he is relatively new to this area and what attracted him and his family was the rural, agricultural, and residential nature of this community. He said although he finds a lot of merit in the proposal to preserve the wetlands that exist behind their properties, but he is concerned about the proposed development for a number of reasons. He brought up the primary and secondary purposes for the OSRD in the Bylaw. He said the primary purposes seem to be well met. However, he does not believe that this development is going to achieve the secondary purposes, which include, one, to preserve and enhance community character, and two, to protect the value of real property. He is concerned that putting six additional houses in very close proximity is creating an urban environment in a very rural and agricultural area.

He said he has other concerns, including that they are requesting waivers on a number of requirements for the right of way and the cul-de-sac. He said in the fire plan they show the truck with barely enough room, it is an undersized cul-de-sac. Secondly, the right of way is going to connect with Coleman Road at Longbrook Road, which is a notoriously dangerous intersection – there have been many accidents. He said while the vantage point from this property is superior, he does not believe that it is a safe entry point to have so many vehicles that would be associated with these houses. He estimated that these new houses would bring in 25 to 35 residents. He said his concern is that they are providing for an overdevelopment of a small area.

He said the other point he would make is on the noise pollution that is likely to occur from such a high concentration of buildings. He said this would be a fair tradeoff if the open space was land that otherwise would not be preserved, but it seems to him that the 86% of the property that is going to be turned over into public lands is basically undevelopable land. He said when he thought that there were going to be three new houses he was fine with that but when he heard seven he was not. This will fundamentally change the character of the area without any real benefit to the community because the area that is being preserved would be undeveloped in any case. He said he is concerned for the quality of life and the property value of the residents in this area.

Kevin Blanchette, 1 Greentree Lane, said he is just outside the 300 foot abutters radius and noted that he lives across the street from most of the abutters on the corner of Greentree Lane and Coleman Road. He said he was happy to see that the developers were going to maintain the Witch's Stone, which is a historic site in Byfield. He said he would like to see some sort of marker designating its significance.

He said half of his property is in Rowley. He said Coleman Road/Glen Street has become a speed way. He has been passed by people going speeds far beyond the limit. He said that at the intersection of Glen Street and Route 1 there have been many fatalities and that at the intersection of Coleman Road at Longbrook Road there have been many accidents. The entrance of this development is at the worst possible point - it is at the height of a hill. He said perhaps the sight lines are better getting out, but by his numbers, you are going to have two or more vehicles per house exiting onto Coleman road at probably the most treacherous point of Coleman Road. He said he would asked that a traffic study be commissioned.

K. Blanchette reiterated that they live at the end of the line of the Byfield Water District. He said this development would not be serviced by municipal water, but by a water district from well water that is controlled by the District. He said there are four residences at the end of the line. He said the pressure there is atrocious because they are at the high point. His concern is that adding these homes would affect the pressure. He would ask that some sort of report be developed with the Byfield Water District trying to determine what the impact would be on the pressure at the end of the line.

Pamela Myer Kinney, 5 Longbrook Road, said she has lived there for 32 years. She said getting out of Longbrook involves looking both ways multiple times and she has been lucky she has not gotten in an accident although she has come close. She said she is concerned with people coming out of Fieldstone and not really paying attention to what is happening on Longbrook.

Ben Armstrong, 30 High Road, said that he and his family were able to go along on a site walk with the Conservation Commission and generally had a favorable reaction to the plan. He said the one concern they have is that his parents live at 1 Coleman Road and their well is in the field below the property. He said it is down slope from the leaching field. He said he expects that the septic system is well designed and will not be an issue, but he just wanted to raise the question and make sure.

Maryanne Sheehan Spacciapoli, 223 High Road, said she was there for the Gadsden Development, but she said she would like to add some perspective on what she has been hearing so far. First she said getting online here was very difficult, she has been dropped off multiple times, she has been raising her hand but they haven't seen it. She said she has daily experience with Zoom and it has worked other places. She said she wants to understand how decisions are made around cutting trees down and the impact on the people who are abutting the development.

P. Paicos apologized for the difficulty getting on to the meeting tonight. He said they have specific criteria and guidelines for making decisions and he said more specific discussion related to the Gadsden Lane Development would be better to table until that public hearing later this evening.

Derek Estella, 4 Greentree Lane, said that he appreciated the effort that has gone into this project. He said he was fortunate to have an exchange with M. Taylor to answer some of his questions. He said he did submit a letter last minute. He said a lot of the items he outlined will probably be part of the further discussion, so he doesn't feel he needs to reiterate those things. He said he does want to reiterate a neighborhood concern. He said

his vantage point is different from that of the direct abutters, but certainly he can understand the concern with going to seven houses. The other items he thought were significant were the traffic and the potential need for a traffic study. He said he knows the view is good from the exit of the new subdivision, but he thinks it being slightly offset from Longbrook's entrance enhances the concern. He said it is immediately adjacent to three already established driveways. He asked them to consider the amount of access points all in that area.

D. Estella said that the plans indicate that the open space would be under the supervision of the Town or a third party entity, and was hoping there could be some clarification about what specifically that means. He said he sees the plan doesn't call for any parking – it seems like it would just be neighborhood traffic. If the Open Space is something that ends up with a larger organization like the Trustees, they advertise the places that their members can go. In a neighborhood like theirs, that increase would be significant. In addition to that, none of the roads has the features needed for foot traffic.

Linda Senecal, 25 Coleman Road, said she is sure there will be a traffic study – her concern is timing. She doesn't think the Governor's Academy is up and running totally and that brings a lot of traffic. She said with that and many people working from home, a traffic study done now may not be representative of sometime in the future.

M. Taylor said D. Estella sent a letter tonight at 6 p.m. so she did not have time to distribute that to the Board prior to the meeting. They have not received any other public comments. She said they have received the peer review letter from their Peer Review Consultant, Joe Serwatka. They have received departmental comments from Fire Chief Janvrin and James Sarette, DPW Director.

L. Murphy said there have been a lot of important and pertinent issues raised tonight, but he has the sense that they are getting ahead of themselves a little bit. He said to him the starting place for any OSRD has to be the yield plan. He explained the yield plan is a plan that the developer puts forward which he believe complies with all of the requirements of law for a definitive subdivision plan. He said the Board has to be satisfied that they have a good yield plan because it is the yield plan that determines how many lots the OSRD plan will support. He said if a developer can put forward a yield plan that complies with all the requirements of the law, then this Board has very little authority to turn it down. The OSRD is an alternate form of subdivision. He said these proceedings are less about whether something can be built and more about what can be built. He said in order to arrive at that judgment, they need to answer some of the questions that the Peer Reviewer has brought up regarding the yield plan. One comment has to do with the scale of the plan, he is sure that can be easily corrected. He questions the adequacy of perc testing. He also commented that the Board may want the engineer to address whether a common driveway would be required to access lots three and four on the Yield Plan. He said he is not sure that would be required, but if it is that would require a special permit so that takes them out of the "as of right" definitive subdivision plan and the yield plan maybe then isn't valid. He said he thinks they need to take a look and get some of these questions answered.

G. Morse said that he appreciates all the input from everybody tonight, it is very helpful to the Board.

L. Matthews said she travels the road somewhat frequently and appreciates what the abutters have mentioned because there were many things that she would not know about just being a traveler.

W. Knight asked if the existing house on this property is on well water or tied into the system. T. Zahoruiko said it is tied into the system.

M. Stohn thanked everyone for participating and said the input was helpful. She said she would like to get more information on the perc tests and the size of the homes.

M. Krugman asked about the determination of the yield plan and its impact on the Board's decision-making. He asked if there are significant waivers that require alteration of a normal implementation of the development, does it follow that that would automatically be granted or does that need to be considered as well. He said in other words the yield plan may say seven properties but the implementation of those may not fit on the lot that is being proposed. He asked if approval was automatic.

P. Paicos said that the yield plan is the stepping stone to see if the applicant can do an OSRD. The OSRD usually has a higher density than would be allowed in a conventional yield plan. The yield plan has to stand on its own, if there are any waivers or as L. Murphy mentioned the possibility of a common driveway, then the yield plan by itself is not "as of right" and if it is not valid, then the next step to an OSRD cannot be made.

P. Paicos gave T. Zahoruiko the opportunity to answer some of the questions or to hold off until the next hearing.

T. Zahoruiko said he would address some of them. He said that the 86% of this land that is intended as open space has a small percentage of wetlands, they are preserving mostly uplands. He said he is not sure where the three houses came from, that is not something that he conceived of, but maybe someone else had done that in the past. He said for the record that if profit maximization was his intent, his financial statement would be very different and he would not have proposed an OSRD. He said he is happy to pursue this as a conventional plan – he thinks that is the irresponsible thing to do, but that is for someone else to decide.

T. Zahoruiko said that they did communicate with the water district and were under the impression that volume and pressure was sufficient, but they can reconfirm that.

T. Zahoruiko said he understands the traffic. He said they did make sure that the sight lines were there on their side of the street, but knows it is a different story on the other side of the street. He doesn't know if they can do anything about the way traffic is there already.

T. Zahoruiko said in response to B. Armstrong's comment about the well and septic interplay, that that is something that the Board of Health will be looking at with the septic design.

T. Zahoruiko said in reference to the open space access that within a quarter of a mile there are approximately 50 residences and half a mile there are 140. He said when he looks at open spaces like this, he sees it as a neighborhood benefit, not a place to encourage vehicular traffic and people parking from who knows where.

P. Henry, Civil Design Group, said he would like to address the yield plan. He said L. Murphy is absolutely right the yield plan sets the base line for the open space residential development, which allows for a 50% bonus density, of two and a half units. They are requesting two units, which is how they got seven for the OSRD. Looking at the requirements under the open space by-law for the yield plan, they feel that the plan that they included meets the contents and requirements of the yield plan. The yield plan shows five units for which one subdivision road is proposed. This complies with the subdivision regulations and J. Serwatka agrees with that. He has commented about the scale of the plan. The test pits for the three lots on the Coleman Road side of the wetlands were witnessed by J. Serwatka. Test pits for the two lots on the opposite side of the wetland were not completed this last summer because there are historical records with the Health Department which they have tried to obtain but have not yet received. They did not want to track equipment back there over the wetlands and trails if they could just request that information. He said it should also be noted, unless he is misunderstanding the regulations, that perc test are not required to prove a yield plan, but shall be provided if available. He said a lot of the comments from J. Serwatka are suggesting a conversation with the Board on the various items.

Motion: A motion was made by L. Murphy and seconded by G. Morse to continue these Concurrent Public Hearings – 15 Coleman Road (Map R02, Lots 12 & 13); Owner/Applicant: Zendko, LLC, Tom Zahoruiko, Manager, OSRD Special Permit Application and OSRD Definitive Subdivision Plan Application to April 7, 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.

D. Public Hearing – Definitive Subdivision Plan Application, 217/221 High Road (Map R27, Lots 51, 53, 54, & 56); Applicant: Gadsden Lane, LLC, Adam True, Manager; Owners: MDM Nominee Trust, Dale B. Batchelder and Carl A. Brown, Trustees (Lots 51 & 53) and Carl Brown & Margaret B. Brown (Estate of Margaret Brown) (Lots 54 & 56)

P. Paicos opened the public hearing. L. Matthews read the legal notice, which was published in the Newburyport Daily News on February 15 and 22, 2021.

M. Taylor confirmed that she had received all the abutter notifications and Daily News legal ad tear sheets.

Douglas Deschenes, representing Gadsden Lane LLC, said here with him this evening is Adam True, Manager of Gadsden Lane LLC, and Scott Cameron, Morin-Cameron Group, Inc., their engineers on the project.

He said the Board will recall that they appeared before them a few months back with a Preliminary Plan for this project, which resulted in a favorable decision including on the waivers they would be seeking. They have taken the Board's determinations and

suggestions and developed the Definitive Subdivision plan before them tonight. He said that they had proposed a reduced roadway and cul-de-sac size to allow the project to better blend into the natural features of the site while at the same time protecting the natural resource areas at the rear of the project.

Scott Cameron, Morin-Cameron Group, Inc., was asked to give an overview of the project and he asked for permission to share his screen. He shared the plans and gave the background of the different plans they had looked at during the Preliminary Plan approval process. He said there are some unique ledge outcroppings on this property and some valuable old trees that they would like to maintain.

S. Cameron said the property is approximately 7.3 acres with two existing dwellings situated on High Road. Behind each there is a rear parcel of land that is not built upon. These four parcels make up the property. He said they located the trees, ledge outcroppings, and the areas where they tested the soil on the plans. He said they had the wetlands delineated by DeRosa Environmental Consulting. There are wetlands in the rear of the property that extends along the northern side lot line. There is an area of bordering vegetative wetland that turns into salt marsh at the rear of the property. He said there is a 100 flood plain that runs at about elevation 13 along the back of the property. He said they also located the Great March Area of Critical Environmental Concern (ACEC). He said they show the 100 foot buffer for the wetlands on the Plans.

S. Cameron then moved on to the Lotting Plan. He said this plan shows the four new lots with sufficient areas, upland, and frontage. It also shows how the existing homes at 217 and 221 will retain their frontage on High Road and their addresses and corresponding driveways.

He then moved on to the Site Plan. He said the right-of-way has a 30 foot radius coming in from High Road and a 22-foot wide paved road. He said a driver approaching the teardrop shaped cul-de-sac would be able to go around in either direction, it is a two lane road. He said they shaped the roadway around the trees they wanted to save, including a black walnut and some mature white oaks – they have had to eliminate only one of the trees they initially wanted to preserve. He said with the final design they took into consideration the grading and the Fire truck movements. He said most of the vegetation that was previously in this area was mostly invasive species and a lot of the trees were not in good shape. He pointed out the ledge outcroppings on the plan. He said the plan shows a total of 12 new trees spaced along the roadway and situated in the front yards of the lots.

He said they also included the conceptual designs for the houses, A. True has gone ahead and designed three out of the four, so these are a fairly accurate representation of what they are actually going to look like. He said that helped them in siting the locations for septic systems, which they have placed in the areas where they had the soil testing. He said they have made sure they can meet the 100 foot radius for the wells.

S. Cameron said the theme of this Project has been minimizing the impact of the development through Low Impact Design. They are taking this approach with Stormwater Management as well. This means they are trying to preserve existing grades and topography as much as possible, and are trying to minimize reliance on proprietary or

structural Stormwater Management practices, pipes, catch basins, and are trying to minimize the overall footprint. He said the road is super elevated so there would be a two percent cross slope on the road, not too steep, but enough to drain stormwater across the road. There will be a swale on one side of the cul-de-sac that would come down to a low point between lots three and two. The water will come down the other side of the cul-de-sac on the outside as well to the same point between lots three and two. It will then continue on between the two lots. They have added a granite spreader to evenly disperse the flow of water, in order to reduce concentrated channel flow. That is good for groundwater recharge and avoiding erosion and scour. After that the water will continue down towards the back of the property as it does today.

S. Cameron then went over the roadway profile. He explained that they exaggerate the profile in the drawing by four times to be able to see it for construction purposes. He said that they have received the initial review from J. Serwatka and are going through that – he is not prepared to fully respond to the comments tonight. He said if there are specific questions, he will do his best to answer them. He said they received comments from Town Staff. He said Deb Rogers, Health Agent, and J. Serwatka commented that the boxes that they show for septic system locations are farther away from the test pits than they expected. He said in the next revision, they will show them with more detail.

P. Paicos asked about the cul-de-sac being two way or one way. S. Cameron said that they looked at a one way design and ultimately with the fire truck access they went with the 22 foot. He said as well they like to make designs as user friendly as possible so that they don't have as much oversight and enforcement in the long term, so that even if someone is trying to cut corners it isn't an issue.

L. Murphy commented that they had a helpful site visit a couple of months ago and he thinks the teardrop shaped cul-de-sac makes perfect sense. He said something that occurred to him when reviewing the plans was whether they are creating a zoning issue with the house at 217. It looks is if it has a side setback under three feet. He said he thinks they have previously received an opinion from Counsel that, under these circumstances, if you change property lines, then you lose that grandfathered status.

M. Taylor said there has been some discussion about this and the possibility of going before the Zoning Board or worst case reconfiguring the garage.

D. Deschenes said that they did discuss this issue with both Town Counsel and the Building Inspector. He said it is his recollection that there was a determination that where they were not changing the frontage and were not changing any of the pre-existing nonconformities, all they were doing to this lot was adding land to eliminate the nonconforming state of the lot size, so they would not need to seek a variance. He said they did agree that if the determination was that they needed a variance, they would seek one from the Zoning Board of Appeals (ZBA). He said he will verify that.

Carolyn Lucy, 221½ High Road, said that earlier it was mentioned that 217 and 221 would keep their addresses the same, but they were told earlier that 221 would be changed to 219 and 221½ could be changed to 221. She said she would like confirmation on what is happening with that. M. Taylor said there was discussion about this when

221½ was built and she thinks it was mentioned to the Applicant early on in the process – it is a recognized issue and something that should be done.

Maryanne Sheehan Spacciapoli, 223 High Road, said she is trying to get a sense of the Town's perspective on development. This development is right up against her property line. She said first of all she doesn't understand how the trees were cut and the feedback from the engineer that there are trees left. She said is right there and there aren't trees left, there is very little, next to nothing. She wants to understand that.

She said, second, these houses are abutting her property, very close to her property line. She thinks two of them are close to her, she would like to understand how that can be done. She would like to understand how they will be dealing with the ledge on the site, noting that there is an enormous ledge there. She asked if they will be blowing that out.

She said she would like to understand light mitigation, noise mitigation, and where the animals are going to go – she has more deer than she would like to talk about. She asked, at the end of the day, why did the trees come down and why did no one talk to anyone? She understands it is in the past, but she doesn't want to have to hire a lawyer to protect her rights. What kind of privacy screens will be developed and plants planted? Why did she not know about this? She said there has not been a lot of communication around this.

P. Paicos said ideally when an applicant is coming before the Board with a project like this, there isn't any tree work done – it is usually held off on until everything can be identified. He said unfortunately that didn't happen in this case. He said he thinks it is incumbent on the applicant to reach out to her. He said they asked the Applicant to reach out to abutters to deal with any concerns. He put that to Adam True to facilitate that process and work with his neighbors in a manner that might address some of the concerns.

M. Spacciapoli said that A. True came to talk to her twice and she was working, so she asked him to email her or call her so they could set up a time that they could have a conversation. She said that never happened.

P. Paicos asked A. True to facilitate some communication to see if there is some remediation that can be done so this can go forward without conflict. A. True said that sounds fair.

M. Spacciapoli said that she doesn't have any answers to her questions. No one has answered her. She said she knows they have a right to develop their property, but she is a taxpayer and she has a right to protect her property. She said M. Taylor has responded to her, but it has been broad and has not been related to the development. She said the name Gadsden, is a family name, but it has a negative background if you are a person of color. She said she has gotten no feedback, none.

P. Paicos said that the Board has just started this public hearing and that as this process goes forward, the Board will document questions and concerns and will direct the Applicant to address them. D. Deschenes has a record of that in our conversation and now he is going to put it on the Applicant to address her concerns.

D. Deschenes said in addition to A. True reaching out, he will provide a written response to those questions.

M. Sheehan Spacciapoli said ok. She said she gave a list of 10 questions in September, October. She said she would really appreciate if she could get answers to each of those questions. She said those should have been entered into the record, since she provided them. She said she was unable to be at that meeting.

M. Stohn said that she thinks it is very important that A. True meet with M. Spacciapoli and get this resolved.

M. Taylor said they have not received any written comments from the public so far. Most of the communications they have received have been mentioned, including J. Serwatka's review letter, a letter from the Conservation Commissioner, Bill Holt, an email from James Sarette, DPW Director, a letter from Doug Janvrin, Fire Chief, and a letter from Deb Rogers, Health Agent.

S. Cameron said J. Serwatka asked about lights and said they are not proposing any light poles. He said they feel that they are not necessary for this project. He said there would be your typical residential sconces on the houses, which will provide more than enough illumination. He said he would like to get the Board's position on light poles on the street if they are prepared.

P. Paicos said that he doesn't know if the Board has had the opportunity to review that - he would ask that they think about that and they could revisit it at the next hearing.

Motion: A motion was made by G. Morse and seconded by L. Matthews to continue the Public Hearing – Definitive Subdivision Plan Application, 217/221 High Road (Map R27, Lots 51, 53, 54, & 56); Applicant: Gadsden Lane, LLC, Adam True, Manager; Owners: MDM Nominee Trust, Dale B. Batchelder and Carl A. Brown, Trustees (Lots 51 & 53) and Carl Brown & Margaret B. Brown (Estate of Margaret Brown) (Lots 54 & 56) to April 7, 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. Proposed Zoning Amendments for Spring 2021 ATM:

M. Taylor discussed the Special Permit Regulations that were referred to the Select Board. The Select Board had some concern about deleting language from their existing Special Permit regulations regarding public hearing and abutter notification, even though all of that is laid out very clearly in Mass General Law. The Select Board voted to refer the proposed Zoning Amendment back to the Planning Board for Public hearing but with some modifications which would keep the existing language and add the Criteria and Conditions paragraphs. M. Taylor said this still takes care of the major issues and the rest could be amended later. M. Taylor shared the draft Amendment and went through the key points.

Motion: A motion was made by L. Matthews and seconded by M. Stohn to set a Public Hearing for the Proposed Zoning Amendment for March 24 at 6:45 p.m. A roll call vote

was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

F. February Financial Report

P. Paicos read the February 2021 Financial Report.

G. Liaison Reports

L. Murphy reported that the next Zoning Board of Appeals meeting is March 18, 2021. The agenda includes a project on Plum Island. M. Taylor said that at the recent MVPC meeting there was a presentation on housing legislation, including legislation regarding MBTA communities. Newbury is considered to be an MBTA Community and will need to set up an area within a certain distance from the station that allows multifamily housing by right. The housing legislation includes some other provisions that would allow for simple majority decisions instead of supermajority in some cases. L. Matthews reported that M. Taylor covered the majority of the Select Board meeting, there was a discussion about a workshop for the emergency egress for Plum Island. A site walk to include Conservation, Planning, Fire and Police Departments was scheduled.

W. Knight asked who makes the determination that they are a MBTA community. M. Taylor said the State made that determination, she believes it has to do with the proximity of a community to an MBTA station, not necessarily if they have a station. W. Knight said that 11 years ago, when he got hurt, he was told that they were not an MBTA community. M. Taylor said she is not sure how they are designated but that she would guess that it is communities that have a train station or are very close to one in a neighboring community.

A motion made by L. Murphy and seconded by L. Matthews to adjourn the Planning Board meeting at 10:03 p.m. A roll call vote was taken L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; M. Stohn, yes; P. Paicos, yes.

Respectfully Submitted,

Emily Noble
Planning Board Administrator