Meeting Minutes
Planning Board
Wednesday, April 1, 2020
Virtual Meeting via Zoom

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

Members Absent: George Morse

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

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

He then stated that the Planning Board meeting was being held remotely in accordance with Governor Baker’s March 10, 2020, Declaration of a State of Emergency in Massachusetts and March 12, 2020 Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. C.30A, § 20 which relieves a public body of the requirement that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate alternative means. Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation. The video of the meeting will be posted on the Town’s website within 48 hours.

P. Paicos then explained how the meeting would be conducted. He warned that the meeting was being recorded and noted that everything, both video and audio, would be captured by the recording. He requested that no participants “screen share” their computer unless requested to do so by him.

A. Mark Griffin – Request to Withdraw Preliminary Subdivision Plan for 105 High Road, submitted February 19, 2020:

Mark Griffin said that DePiero, LLC, had filed a preliminary plan back in February, the intent of which was to freeze the zoning for the property. He noted that at the time of submission they had neglected to file the notice with the Town Clerk as required and that it was his opinion that the filing was therefore defective. On behalf of his client, DePiero, LLC, M. Griffin requested that the Board allow the Applicant to withdraw the original filing without prejudice and noted that he would be refiling the Preliminary Plan for 105 High Road later in the meeting.

Motion: A motion was made by L. Matthews and seconded by M. Stohn to allow the Applicant, DePiero, LLC, to withdraw the Preliminary Subdivision Plan Application for
105 High Road without prejudice. A roll call vote was taken: L. Murphy, yes; M. Stohn, yes; L. Matthews, yes; P. Paicos, yes. The motion passed unanimously.

B. **Bob Grasso, Engineering Land Services, LLC – Submission of ANR Plan for Lot Division at 45 Moody Street (Map R40, Lot 15); Owner/Applicant: The Richard J. Boudreau and Pauline C. Boudreau Irrevocable Trust, Karyn M. Alves, Trustee:**

On behalf of the Applicant, Bob Grasso, Engineering Land Services, LLC, submitted an ANR Plan for division of the 5.7 acre lot at 45 Moody Street into two lots. Lot A has 132 feet of frontage on Moody Street and contains the existing dwelling. Lot B, with 4.4 acres and no frontage, is to be combined with an adjacent lot owned by the Commonwealth of Massachusetts located at 66 Forest Street.

B. Grasso said that Mass Fish and Game had taken control of this lot in 1959 when it was granted to Fish and Game by the U.S. Government. He explained that the Boudreaus, who had purchased the lot in 1969, not knowing that it had been granted to Fish and Game, went through the General Court to try to obtain control of the lot. The proposed ANR Plan was agreed on, voted on by the Legislature, and signed by Governor Baker in January 2020. As the final step in the process, Planning Board signature was needed on the ANR Plan in order to get it recorded at the Registry of Deeds. B. Grasso noted that the Plan included a Restrictive Covenant on an area at the rear of Lot A for wildlife protection. This Covenant will be recorded with the Plan and the Decision from the Court.

**Motion:** A motion was made by L. Murphy and seconded by L. Matthews to endorse the ANR Plan for Lot Division at 45 Moody Street (Map R40, Lot 15); Owner/Applicant: The Richard J. Boudreau and Pauline C. Boudreau Irrevocable Trust, Karyn M. Alves, Trustee. A roll call vote was taken L. Murphy, yes; L. Matthews, yes; P. Paicos, yes. M. Stohn was absent from the meeting during this discussion. The motion passed unanimously, with three Board members present.

C. **Public Hearing – Proposed Zoning Amendments Submitted by Citizens Petition for Changes to Parker River Residential District:**

P. Paicos opened the public hearing to consider proposed zoning changes to the Parker River Residential District submitted by Citizens Petition.


Michelle Augeri, the sponsor of the petition, asked to speak. She said that she and the other signatories had gone to great lengths to notify all of the property owners affected by these amendments to give them the gist of the amendments they were proposing. They had subsequently sought feedback from the neighborhood and the property owners after the petitions were originally submitted. During these discussions, they found that even though a considerable number of residents in the neighborhood were supportive of the proposed zoning amendments and did not see them as being adverse to their own properties, there were a few people who felt very strongly that these amendments were a
violation of their property rights. The signatories of the Petition concluded that the anger and the concerns that these residents expressed about potential restrictions on what they could do with their property were strong enough to damage the signatories’ intent in proposing the amendments in the first place, which was to maintain the sense of community, cohesion, and consistency in the neighborhood. M. Augeri said that it therefore seemed that the possible benefits that might be derived from passing the amendments were outweighed by the damage that might be done to the good will in the neighborhood if the amendments were adopted. She said she had canvassed the group that initiated the petitions and they had reached universal agreement that they would like to withdraw these petitions, particularly the one for the zoning amendment limiting the square footage of structures. She said she understood why it also might not make sense to expand the boundaries of the Parker River Residential District, given the history of how that District was created

M. Augeri said that she had spoken with M. Taylor about what the procedure would be to withdraw the petitions.

P. Paicos said that he understood that they might have some homework to do with regard to withdrawal and felt that it would be appropriate to continue the hearing.

M. Taylor said she had been in touch with Town Counsel and wanted to verify with her exactly what the process would be for the signatories to withdraw the petitions. She also noted that the Board of Selectmen had voted the previous night to postpone the Annual Town Meeting to June 9th. This postponement would provide more time if the Board felt that it would be appropriate to continue the hearing. Based on what the M. Augeri said, the Board might also decide that it would be reasonable to close the hearing, but M. Taylor said it was unclear without input from Counsel whether a vote of “no action” or some other vote would be appropriate.

L. Murphy agreed that feedback from Town Counsel was needed. His opinion was that if the proposed amendments had to stay on the warrant, someone would have to move no action at Town Meeting.

M. Taylor said that the last time she spoke with Town Counsel about this, it was her understanding that the petitioners could withdraw; she was just not sure of the mechanism. M. Augeri said that that was her interpretation of the law as well.

P. Paicos said he thought it would be appropriate to continue the public hearing

L. Murphy said that would be fine with him. In his opinion, the only other option would be to vote on the amendments that night. He said that for a variety of reasons, he was inclined not to support the proposed amendments. He felt in particular that it is highly doubtful that interior finished area can be limited through zoning. He also felt that there might be some technical issues with the district boundary descriptions. He concluded that the prudent thing to do was probably to continue the public hearing.

M. Stohn asked what the vote would be that night if there were one. M. Taylor said it would be to recommend or to not recommend the proposed amendments to Town Meeting. Otherwise, the Board could keep the hearing open pending further guidance
from Town Counsel on what the mechanism is for the signatories to withdraw the petition.

L. Matthews said she thought it would be good to get the information from Town Counsel, to play it safe.

The Board decided to continue the public hearing to May 6, 2020 at 7:00 p.m.

**Motion:** A motion was made by L. Murphy and seconded by L. Matthews to continue the Public Hearing on the Proposed Zoning Amendments Submitted by Citizens Petition for Changes to Parker River Residential District to Wednesday, May 6, 2020 at 7:00 p.m. A roll call vote was taken L. Murphy, yes; M. Stohn, yes; L. Matthews, yes; P. Paicos, yes. The motion passed unanimously.

M. Augeri asked if she would need to be present at the next public hearing to reiterate what she had said or was that now in the record of this meeting.

M. Taylor said it was now in the record. It could be reiterated at the continuance of the hearing, but it didn’t need to be stated again by M. Augeri.

D. Stephen Sawyer, DCI – Submission of Preliminary Subdivision Plan for 105 High Road (Map R48, Lot 49); Owner/Applicant: DePiero, LLC:

On behalf of DePiero, LLC, Steve Sawyer, Design Consultants Inc., resubmitted the 105 High Road Preliminary Subdivision Plan Application and stated that he had also submitted the Notice and Application to the Town Clerk as required.. He noted that it was basically the same submission as had been submitted previously.

M. Taylor said that she had received the required number of hard copies that day as well as electronic copies.

**Motion:** A motion was made by L. Matthews and seconded by M. Stohn to accept the submission of the Preliminary Subdivision Plan Application for 105 High Road (Map R48, Lot 49); Owner/Applicant: DePiero, LLC. A roll call vote was taken L. Murphy, yes; M. Stohn, yes; L. Matthews, yes; P. Paicos, yes. The motion passed unanimously.

E. Stephen Sawyer, DCI – Submission of Preliminary Subdivision Plan for 277 High Road (Map R11, Lot 70); Owner/Applicant: DePiero, LLC:

On behalf of DePiero, LLC, Steve Sawyer, Design Consultants Inc., submitted a Preliminary Subdivision Plan Application for 277 High Road. He noted that the Applicant did not intend to develop the property in accordance with this Plan, but was submitting to freeze the zoning and protect the parcel from any zoning changes that might be adopted. The Plan shows the lot split into two lots with a short cul-de-sac.

**Motion:** A motion was made by M. Stohn and seconded by L. Matthews to accept the submission of Preliminary Subdivision Plan Application for 277 High Road (Map R11,
Lot 70); Owner/Applicant: DePiero, LLC. A roll call vote was taken L. Murphy, yes; M. Stohn, yes; L. Matthews, yes; P. Paicos, yes. The motion passed unanimously.

**F. Borrego Special Permit Modification Application, 136 Main Street – Decision:**

The Board reviewed the draft of the Decision prepared by M. Taylor for Modification of Condition #6 of the Special Permit granted to Borrego Solar, Inc., in May 2018 for a 2.785 mW Solar Energy Generating Facility at 136 Main Street. M. Taylor asked whether the Board saw any need for additional conditions. L. Murphy noted that per the Decision all of the other original conditions were still in effect and he saw no need for any further conditions to be imposed with respect to this modification. The other Board members agreed.

**Motion:** A motion was made by L. Matthews and seconded by L. Murphy to approve the Special Permit Modification Application, Borrego Solar, Inc.: Request to modify Condition #6 of the Special Permit granted for a 2.785 mW Solar Energy Generating Facility on property located at 136 Main Street (Map R41, Lot 42A), 138 Main Street (Map R41, Lot 42B), 140 Main Street (Map R41, Lot 42), and Off I-95 (Map R42, Lot 13); Owners: Ruth Yesair (136 and 140 Main Street, and Off I-95) and Kavy and Kelly Yesair and Karen Yesair, Trustees (138 Main Street); Applicant: Borrego Solar Systems, Inc. A roll call vote was taken L. Murphy, yes; M. Stohn, yes; L. Matthews, yes; P. Paicos, yes. The motion passed unanimously, with four in favor.

M. Taylor said given the restrictions arising from COVID-19, getting signatures from all of the Board members might be difficult. She suggested that the Board vote to authorize P. Paicos as Chair to sign the Decision on behalf of the Board and said that she would modify the last page of the Decision to reflect that vote.

**Motion:** A motion was made by L. Murphy and seconded by L. Matthews to authorize the Chair of the Planning Board, Peter Paicos, to sign the Decision on behalf of the Board. A roll call vote was taken: L. Murphy, yes; M. Stohn, yes; L. Matthews, yes; P. Paicos, yes. The motion passed unanimously, with four in favor.

**G. The Governor’s Academy, Request for Modification of Approved Site Plan for French Student Center Renovation:**

Paul Avery, civil engineer for the Governor’s Academy French Student Center Renovation project, explained to the Board that two changes were made to the plan for the French Student Center. The first change was due to a request made by a major donor to save a tree that was in the path of the new walkway, so they redesigned the walkway to go around the tree. The second change was extension of the new patio to an existing retaining wall, thereby eliminating a two-foot gap between the patio as originally designed and the retaining wall.

L. Matthews asked if the wall they propose to take down is just a retaining wall. P. Avery said yes – they will replace it with a Techno-Bloc wall.
M. Stohn asked if it was difficult to come up with a plan to save the tree. P. Avery said it was not particularly difficult but the redesign resulted in a little longer walkway than was necessary.

Noting the time, P. Paicos interrupted the discussion to announce that the public hearing scheduled to start at 7:15 p.m. would begin after they finished with this agenda item.

M. Taylor asked what type of tree it was. P. Avery said he did not know. M. Stohn asked how old. He said he did not know that either.

M. Taylor asked if the redesign would result in any change to the stormwater management plan. P. Avery said that no new runoff patterns would be generated.

M. Taylor noted that it makes all the sense in the world to extend the patio to the existing wall.

P. Paicos asked whether the Board thought the proposed changes were a major modification or a minor modification. A major modification would require a public hearing.

L. Murphy said he would call these minor modifications, L. Matthews agreed. M. Stohn said she saw no need for a public hearing. Woody said that it looked good to him, as a minor modification.

**Motion:** A motion was made by L. Murphy and seconded by M. Stohn to approve the requested minor modifications to the approved Site Plan for the Governor’s Academy French Student Center Renovations, 324 Middle Road, Map R15, Lot 4; Owner/Applicant: The Governor’s Academy. A roll call vote was taken: L. Murphy, yes; M. Stohn, yes; L. Matthews, yes; P. Paicos, yes. The motion passed unanimously.

H. **Public Hearing – Definitive Subdivision Plan for “Farm View Lane,” 68 Green Street (Map R35, Lot 21); Owner/Applicant: 68 Green Street Realty Trust, Eva Jackman, Trustee**

P. Paicos opened the public hearing to consider the Definitive Subdivision Plan Application for 68 Green Street, “Farm View Lane.”

M. Taylor read the public hearing notice. M. Taylor then said that the Applicant, Eva Jackman, had requested to continue this public hearing to the next possible Planning Board Meeting. She read the request from E. Jackman.

The Board discussed the date for the continuance of the hearing in light of the current restrictions due to COVID-19.

**Motion:** A motion was made by L. Murphy and seconded by L. Matthews to accept the request and to continue the Public Hearing on the Definitive Subdivision Plan for “Farm View Lane,” 68 Green Street (Map R35, Lot 21); Owner/Applicant: 68 Green Street Realty Trust, Eva Jackman, Trustee to Wednesday, May 6 at 7:15 p.m. A roll call vote
was taken: L. Murphy, yes; M. Stohn, yes; L. Matthews, yes; P. Paicos, yes. The motion passed unanimously.

I. Town Planner’s Report

M. Taylor said that a great deal of effort had gone into getting the Board set up to be able to conduct the meeting remotely, especially on the part of Susan Noyes. She said she was glad that both Board members and members of the public were able to join the meeting without too much difficulty.

She noted that the public hearings for the 108 Main Street Definitive Plan and Common Driveway Special Permit are scheduled to open on April 15 and the Applicant is eager to move forward on that project if possible.

She reported that she is expecting an application for the proposed AL Prime gas station on Central Street and that it may be submitted on April 15.

M. Taylor said that the Town Hall employees were all now working remotely from home except on the one day that each department has been assigned to be in Town Hall – Planning and the Town Administrator are in on Fridays. She asked the Planning Board members to let her know if they saw any issues at their end. She noted that she has a virtual connection to her computer at work from her computer at home and has access to her voicemails through her email.

M. Stohn asked if it made sense to keep the meetings going and keep the wheels turning to a certain extent while Town Hall was closed and if it required too much work for the employees at the Newbury Town Offices or if it was a manageable task. She said her preference would be, as a Board member and a resident of the town, that things go on as much as possible, but she wouldn’t want anyone at the Town offices to be put in any jeopardy.

M. Taylor said that she thought that some combination of remote and in office time was necessary. She said it has been a transition, but everyone is working to keep normal functions going to the greatest extent possible. She also said it might be possible to start holding public hearings as scheduled so that things don’t get backed up.

S. Noyes added that things were going pretty well now that the employees had had a couple of weeks to adjust to working from home. She also though some time in the office made sense, to check physical mail, process payments, and receive submissions. She said she is also the Administrator for the Zoning Board of Appeals, which is going to try to push all its April hearings to May. She noted that the 40B public hearing is coming up in May and it will be a challenge conducting that via Zoom because there will be many abutters and others who will be very interested in that application.

M. Stohn thanked them and asked if they felt safe in the environment at Kent Way. M. Taylor and S. Noyes explained the safety measures in place to keep employees safe and healthy.
J. Liaison Reports

M. Taylor reported that the March Merrimack Valley Planning Commission meeting was cancelled, but that the intention is for MVPC to conduct a remote Commissioners meeting in April.

M. Stohn asked if it would make sense for the local paper to know that the Town is moving forward in some way, noting that residents should know that their Town is still working for them. S. Noyes said that T. Blais and Chief Reilly are the spokespeople for the Town and that there has been communication between them and the Daily News reporter, Jen Solis. M. Stohn said it might be worth noting to them that this was discussed at the meeting.

On a motion made by L. Matthews and seconded by M. Stohn, the Planning Board meeting was adjourned at 7:44 p.m.

Respectfully Submitted,

Martha Taylor
Town Planner