

**Rochester Planning Board
Minutes of May 25, 2021**

Present: Arnold Johnson, Chairman
Bendrix Bailey, Clerk
Michael Murphy, Associate Clerk
Lee Carr
John DeMaggio
Chris Silveira

Absent: Gary Florindo, Vice Chairman

Steven Starrett, Town Planner
Blair Bailey, Town Counsel
Marissa Perez-Dormitzer, Recording Secretary

The meeting convened via Zoom Meeting ID 884 3425 4016. Members joined in-person at Old Colony Regional Vocational Technical High School. Chairman Johnson called the meeting to order at 7:11 p.m. and stated the meeting was being recorded.

BUSINESS

No business was discussed.

PUBLIC MEETINGS:

Approval Not Required Application

William Clapp, for property located at 52 Clapp Road, Map 30, Lots 2A, 3, and portions of lot 2B

Matthew Leone of Schneider, Davignon & Leone, Inc. shared his screen showing the plan. He explained the total property included Lots 2A, 3 and a portion of 2B. They were creating two additional lots for a total of three lots, 2-1, 2-2, and 2-3, from land that was previously lot 3. The existing single-family dwelling was on Lot 2-1 with the exception of the garage, which would be removed. Mr. Leone stated the additional Lots 2-2 and 2-3 met the requirements for building lots under the Town's Bylaws.

A motion to approve an Approval Not Required plan for 52 Clapp Road by Schneider, Davignon & Leone, Inc. dated May 19, 2021 was made by Clerk Bailey and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

PUBLIC HEARINGS

(Continued from May 11, 2021) **A Large Scale Photovoltaic Installation Special Permit Application and Special Permit Application for Groundwater Protection, filed by Snipatuit Road Solar, LLC, Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772 for property located at 0 Snipatuit Road, designated at Map 46 and 47, Lots 1, 4, 9, 9A, 26, and 27.** The applicant proposes the construction of a ± 4.8 MW DC Ground-Mounted Solar Photovoltaic Array within the Residential/Agricultural District. The Property is also within the Mattapoisett River Valley Watershed and partially within the Groundwater Protection District and the Floodplain Overlay District. The property owners of record are Lisa Holden, Trustee, Rochester Realty Trust and Aquidneck Nominee Trust, ET AL, and Kevin J. and Cassandra A. Cassidy. The applicant's representative is Eric Las, Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772.

Eric Las, P.E. and Principal of Beals and Thomas, Inc. stated they were awaiting a second peer review letter from Ken Motta and had nothing new to add.

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A motion to continue to June 8, 2021 was made by Clerk Bailey and seconded by Member Carr. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

(Continued from April 27, 2021) **A Large-Scale Photovoltaic Installation Special Permit Application and Special Permit Application for Groundwater Protection, filed by Cushman Road Solar, LLC, P.O. Box 1340, Portsmouth, NH 03801 for property located at 0 Cushman Road, designated as Lot 11 on Rochester Assessors Map 33.** The applicant proposes the construction of a ± 3.9 MW DC Ground-Mounted Solar Photovoltaic Array within the Residential/Agricultural District. The property is also within the Mattapoissett River Valley Watershed, partially within the Groundwater Protection District, and the Floodplain Overlay District. The property owner of record is Lisa Holden, Trustee, P.O. Box 388, Rochester, MA 02770. The applicant's representative is Eric Las, Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772.

Eric Las, P.E. and Principal of Beals and Thomas, Inc. stated that Joe Harrison, Project Developer of Sunraise Investments, and Caroline Booth of Beals and Thomas, Inc. were present.

Mr. Las reported the Board recently had a site walk and provided comments on the project. He noted a supplemental package with revised plans was submitted to the Board on April 29, 2021 and Ken Motta of Field Engineering issued a review letter on May 21, 2021. He explained a big focus was addressing construction traffic. They developed a traffic management plan and made additional notations to the site preparation plans and site plans. They resolved most of the comments about the solar facility itself and stormwater management. Mr. Las stated they would work to minimize disturbance and impacts to the Mann's driveway and address concerns about an underground electrical conduit. He mentioned the structures for the electrical conduit would be made to handle the tractor-trailers that come into the Mann's property. The contractor would install the electrical conduit by trenching and backfilling the conduits as they go. The contractor would also cone off sections as they install the conduit only in the area of work.

Ms. Booth shared her screen showing a diagram of the access road. Mr. Las explained they would put up a temporary privacy fence to screen the Mann's riding ring. There were existing utilities on the Mann's property including a drainage swale and French drain that would be noted on the plan and either protected or replaced. There were sections of existing stone wall in the area. Mr. Las mentioned that when they established the property line they had to use the center line of the wall. He stated that some of the stones were within the right of way and they planned to reconstruct the stone wall along the side of the right of way. Mr. Las mentioned they had tried to address all the comments from the Koczera family and were happy to hear more requests. He stated that temporary easements would be needed for construction that had to be worked out.

Chairman Johnson explained that access was the most difficult part and that the Board would need more information about the methods and means. He mentioned there would be a lot of grubbing and clearing in the right of way and it was not mentioned in the plan or the narrative. The Board would also need more information about stockpiles location, staging areas, and how they would handle materials. Chairman Johnson stated they would encounter rocks during construction and would need to bring them somewhere. He noted the road would need to have two-way traffic during construction. The applicant would need a plan to manage the traffic with either a signal system or flaggers with walkie-talkies. Mr. Las referred Chairman Johnson to the notes on the traffic management plan and Chairman Johnson responded that the Board would need more detail.

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Glenn Belliveau, 15 Benson Road, asked how many solar farms were in Rochester. Town Planner Starrett responded there were 7 or 8 working facilities. Chairman Johnson added that 3 or 4 more were permitted. Mr. Belliveau asked if there was a limit and Chairman Johnson responded no.

David Davignon of Schneider, Davignon & Leone, Inc. reiterated the biggest concern was access. He suggested seeking input from an excavating company on how to approach the work. Mr. Las responded that he did a site walk with a representative of an excavating company who provided input.

Lisa and David Mann, 8 Robinson Road, were present. Ms. Mann stated she sent a letter that morning. She was concerned that the project would be a huge disruption to their farm. She noted that she asked the solar company to move their riding ring.

Julie and Mike Koczera, 2 Robinson Road, were present. Ms. Koczera asked if she could obtain a copy of the review letter from Mr. Motta. Chairman Johnson responded yes. She reported that David Davignon has submitted a letter. She asked how much time they would be behind her house. She noted the center line of the right of way was all boulders and trees. She reported that Joe Harrison visited unannounced one day and they had discussed if it was feasible to move the right of way. She had not heard back from Mr. Harrison. She hoped her questions would be answered. Chairman Johnson stated that moving the right of way was not a Planning Board issue.

Mr. Harrison explained the right of way on the Koczera property was overgrown in some areas and there was the rock wall. He noted that fewer trees would need to be removed if the access road was moved away from their residence. He mentioned to Ms. Koczera that they could discuss moving the access road if she and her husband were interested.

A motion to continue to June 8, 2021 was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

***(Continued from May 11, 2021)* A Definitive Subdivision Plan Application entitled “Longbow Lane” for Bendrix Bailey, Pres. 34 Gerrish Road, Rochester, MA, dated February 23, 2021 and prepared by GAF Engineering, Inc. 266 Main Street, Wareham, MA, 02571. The property is located off Gerrish Road and is designated as Lot # 29-F, on the Rochester Assessors’ Map # 43-A.**

(Clerk Bailey recused himself from the Public Hearing.)

Brian Grady of G.A.F. Engineering, explained the goal of the project was to provide access and frontage for a single family lot. The approach to the proposed home would be a driveway, as opposed to a conventional road, and would maintain the neighborhood feel. The driveway included drainage through an infiltration basin sized for a 100-year event. He stated they had requested several waivers. One waiver request was for the 500 feet limit on the length of the roadway. The proposed driveway was 720 feet.

Town Counsel Bailey explained the applicant was seeking a waiver from the Rules and Regulations Governing the Subdivision of Land, which could be waived by the Board. He stated the 500 feet limit appeared to be related to public safety. If the road was cut off, it could cut off access by emergency vehicles.

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Chairman Johnson stated the applicant was proposing recycled asphalt for the road and noted the person purchasing the property would be doing the construction. Mr. Grady clarified that Mr. Bailey would construct the road before it was sold. Chairman Johnson stated a concern that the recycled asphalt was a little more permeable. Mr. Grady responded that it was not enough to make a difference. Chairman Johnson stated he received a call from the Fire Department and they questioned the adequacy of the hammerhead turnaround.

Bob Mogilnicki, 20 Bishop Road, noted that 720 feet compared to 500 feet was a significant variance to be granted. He asked if one had been granted near that length. Town Counsel Bailey noted the word variance was used when requesting relief from the Zoning Bylaw. Chairman Johnson stated the Board had not granted many waivers for a roadway longer than 500 feet and those all were for more than one home. He noted the Board did not regulate driveways unless it was a common driveway. Mr. Mogilnicki mentioned on the plan it was a street not a driveway. Chairman Johnson explained that to build on the property they had to show they could build a conventional subdivision and then ask for the waiver for the roadway. He noted it was the same procedure for a backlot subdivision. Chairman Johnson stated he had concerns about the length of the road. He had spoken with Town Counsel Bailey who said the property could never be subdivided again so it was being considered a long driveway, if the Board approved. Town Counsel Bailey stated the Board would need a reason to deny the application.

Melanie Perry, 12 Bishop Road, asked if the Town would plow the road. Chairman Johnson replied that the Town would not take ownership. Town Counsel Bailey added that they Town could not plow roads unless Town Meeting gave approval.

Ruth Lissak, 15 Gerrish Road, asked to confirm that the only access is the road. Town Counsel Bailey responded yes. Ms. Lissak asked to confirm there was no chance that more than one house would be built. Town Counsel Bailey responded that there was no chance. Ms. Lissak asked if there was a chance the Town would be paying for upkeep of the road. Both Chairman Johnson and Town Counsel Bailey responded no.

Colman Lalli, 16 Bishop Road, asked if there was any hardship related to the 21 waivers being requested. Chairman Johnson responded that an applicant needed to prove hardship when filing with the Zoning Board of Appeals for a variance. He noted that every applicant to the Planning Board seeking to put up a subdivision asked for waivers. He explained that they write their regulations for the biggest development in Town, but through the waivers, they can ensure they do not burden smaller developments. Mr. Lalli noted the road was just off the property line of the abutters. Chairman Johnson said it was allowed. In response to a concern from Mr. Lalli, Mr. Grady explained the road would be quite easily stabilized. It would be close to grade or below grade with reasonable side slopes. Mr. Lalli asked how far the road was to the edge of the property line. Mr. Grady responded that it would be 16 feet off the property line, which provided room for the grading. Mr. Lalli asked if the Board had walked the site. Chairman Johnson responded no, but added that they could.

Mike Sylvia, 18 Bishop Road, suggested the Board visit the site to see the impact to the neighbors. Mr. Sylvia suggested that the lots on Gerrish Road and the access road were pre-approved by the Board. Chairman Johnson explained that Mr. Bailey had filed an Approval Not Required plan for the two lots that had been approved. Mr. Sylvia said Mr. Bailey already sold the two lots and noted if the driveway was not approved, the land was wasted. He added that he would "feel better if the guy wasn't on the Planning Board."

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Chairman Johnson explained that the Board was not concerned with the financial considerations of any applicant. He stated that all applicants went through the same process. He noted that the Board had never approved a project without some modifications.

Mr. Mogilnicki stated he disagreed with the engineer and said there would need to be a lot of shoring up of property. He suggested the Board look at it.

Tom O'Shaughnessy, 29 Gerrish Road, stated there was construction on one of the two lots sold. He asked if the properties were sold to someone else. Mr. Grady responded yes. Mr. O'Shaughnessy asked if what Mr. Bailey was proposing was a third home. Town Counsel Bailey stated it was a third home on the lot. Mr. O'Shaughnessy asked if the other two were part of Snipatuit Estates and Chairman Johnson responded that he did not know. Town Counsel Bailey stated the information could be found on the deed for the homeowners association.

Jamie Coleman, 13 Bishop Road, asked if Lot 29G was sold with an easement for the road. Chairman Johnson stated that Lot 29G did not have the road going through it. Town Counsel Bailey clarified that the access road was all on one lot.

Mr. Belliveau asked if the material for the road would affect the water supply. Chairman Johnson stated it was made from the grindings of preprocessed asphalt. It was a more permeable form of an asphalt product. He noted it was a very stable surface.

Chairman Johnson stated the Board would continue the Public Hearing and visit the property. He explained the Board's job was to make sure projects fit the parameters or could be conditioned to fit the parameters.

Mr. Lalli commented that the project would ruin the backyards of five properties. Chairman Johnson stated they would get a better overview when the Board visits the site. He noted that only applicants, consultants, Board Members, and Board staff were allowed on the property unless permission was requested from the owner. He added that owners of abutting property could invite Board Members on their property to see it from their point of view.

Bendrix Bailey, applicant, explained there was not going to be a lot of land clearing. He noted that the person who builds a house would also want privacy. He stated he expected the house would be more visible to his house than the abutters' houses. He added that he would have a fair amount of control and could sell the lot with restrictions. Mr. Lalli asked if Mr. Bailey recently had his house appraised. Mr. Bailey responded that he did an appraisal on it years ago.

Members agreed to a site visit on June 8, 2021 at 6:00 p.m.

A motion to continue to June 8, 2021 was made by Member DeMaggio and seconded by Associate Clerk Murphy. **The motion passed by a vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

(Clerk Bailey resumed his role in the meeting.)

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NEW BUSINESS & PUBLIC COMMENTS

Chairman Johnson stated that Vice Chairman Florindo would be stepping down after 17 years of service to the Board. Associate Clerk Murphy stated they would need to appoint someone to take his position.

Associate Clerk Murphy stated that Member DeMaggio was knowledgeable and had been on the Board a long time. Member Silveira asked if they should do the reorganization after elections. Chairman Johnson responded that they could do either and Town Counsel Bailey agreed. Chairman Johnson agreed with Associate Clerk Murphy's assessment.

A motion to put Member DeMaggio in Gary Florindo's position as Vice Chair was made by Associate Clerk Murphy and seconded by Member Silveira. Member DeMaggio abstained. **The motion passed by a vote of 5 in favor, 0 opposed, 1 abstained (5-0-1).**

A motion to appoint Arnold Johnson as Chairman and Michael Murphy as Associate Clerk was made by Clerk Bailey and seconded by Member DeMaggio. The motion was amended to appoint Bendrix Bailey as Clerk. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

TOWN PLANNER UPDATES

Town Planner Starrett reported that one unit was fully framed and roofed at the Village at Plumb Corner. Member Carr noted he had not heard any work done on Sundays. Chairman Johnson asked if Town Planner Starrett knew the time table for the drainage at Plumb Corner and Town Planner Starrett responded no. Chairman Johnson asked if any applications had been submitted for the Town Planner position and Town Counsel Bailey responded that he had not seen any. Town Planner Starrett reported that Victoria D'Antoni, the new Board Administrator, had been on the job for two days. Chairman Johnson asked when Lori Walsh, the new Recording Secretary was starting and Town Planner Starrett said she would start at the next meeting.

Susan Maguire, 150 Ryder Road, asked the Board questions about Connet Woods related to three additional lots that might be developed and the 400 acres of open space with trails. Ms. Maguire mentioned there was a lot of dumping on the trails.

ADJOURNMENT

An amended motion to adjourn at 9:05 p.m. was made by Member DeMaggio and seconded by Associate Clerk Murphy. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Marissa Perez-Dormitzer, Recording Secretary

Arnold Johnson, Chairman