

**Rochester Planning Board
Minutes of May 26, 2020**

Present: Arnold Johnson, Chairman
Gary Florindo, Vice Chairman
Bendrix Bailey, Clerk
Lee Carr
John DeMaggio
Chris Silveira

Absent: Michael Murphy, Associate Clerk

Blair Bailey, Town Counsel
Steven Starrett, Town Planner
Tanya Ventura, Board Administrator
Marissa Perez-Dormitzer, Recording Secretary

The meeting convened by video conference via Zoom Meeting ID 827 1923 1951. Chairman Johnson called the meeting to order at 7:05 p.m. and made everyone aware that the meeting was being recorded. Chairman Johnson took attendance of Members and staff and stated that votes would be taken by roll call.

BOARD BUSINESS

Minutes

A motion to accept the minutes of May 12, 2020 was made by Clerk Bailey and seconded by Member Carr. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Vouchers

Chairman Johnson noted he did not have one of the vouchers to sign and it will be handled at the next meeting.

A motion to approve a voucher for the Adobe Acrobat Subscription Reimbursement/February 2020-April 2020 in the amount of \$47.79 was made by Clerk Bailey and seconded by Member Carr. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

2020-2021 SRPEDD Commission Appointment Form

Chairman Johnson stated that Town Planner Starrett volunteered to serve on the SRPEDD Commission through May 22, 2021.

A motion to approve Town Planner Starrett's appointment to SRPEDD was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Site Visit at Connet Woods

Chairman Johnson stated they will advertise the Public Hearing for the June 9, 2020 meeting. Members agreed to a site visit on June 4, 2020 at 4:00 p.m.

A motion to hold a site visit at Connet Woods on June 4, 2020 at 4:00 p.m. was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

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PUBLIC HEARINGS

Zoning By-Law Amendment:

To consider amending the Rochester Zoning By-laws, Section 21.10 Section 2, formerly Section VII.2, regarding the approval of new flood maps. A copy of the full text of the warrant articles and maps can be viewed in the office of the Town Clerk during normal business hours, or downloaded from the Town's website.

Town Counsel Bailey explained that every five years, FEMA's flood maps are amended. Town Counsel Bailey stated that FEMA does not have authority to delay implementation of the new map. He noted that many of the changes are a result of landowners appealing the process and the updates are important for landowners in the Town.

A motion to close the Public Hearing was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

A motion to recommend passage of the Zoning By-Law Amendment was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

A Special Permit Application for a ground-mounted solar photovoltaic array within the Residential/Agricultural District, filed by Featherbed Lane South Solar, LLC, Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772, for property located at 0 Featherbed Lane, Rochester, MA 02770, designated as Lots 24 on Assessor's Map 46. The proposed project includes the installation of a large-scale ground-mounted solar array and associated access road, perimeter fence, storm water management systems, and grading located in the residential/agricultural district. The property owner of record is Judith Dupont, 123 Rounseville Road, Rochester, MA 02770. The applicant's representative is Eric Las, Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772.

Eric Las, Principal, of Beals and Thomas shared his screen showing the plan set dated March 30, 2020. He explained the site is forested with wetland resources on the eastern portion that were confirmed through an ANRAD. Mr. Las mentioned that Featherbed Lane is considered a public way and requires a 300 feet setback off the entire length of the installation. He noted they will maintain significant vegetative buffer from the street. The minimum distance from the array to any abutter is approximately 500 feet. Mr. Las stated it is a 2.5 MW solar installation.

Mr. Las provided additional details on the project. He reported that Field Engineering is performing a peer review, but they have not yet received comments. Mr. Las mentioned they will need to file a Notice of Intent with the Conservation Commission. Mr. Las stated there will be minimal grading and an equipment pad is proposed with the battery storage system. He noted the property is in the Groundwater Protection District, but not the location of the array. They have already received approval from the Mattapoisett River Valley Water Supply District Commission.

Chairman Johnson pointed out minor corrections to the plan. Vice Chairman Florindo asked to clarify a setback.

Damien McCann, 150 Featherbed Lane, asked if the 580 feet setback near his property is measured from the property line or the road. Mr. Las responded that it is likely from the edge of the array to the house and he can confirm it at the next hearing. Mr. McCann asked the height of the fence. Mr.

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Las responded that it is a 7 feet black vinyl chain link fence. Mr. McCann noted he had a nice view out of his second story window that he did not want to lose.

A motion to continue the Public Hearing to June 9, 2020 was made by Member DeMaggio and seconded by Member Carr. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

3. A Special Permit Application for a ground-mounted solar photovoltaic array, filed Greg Carey of Rochester MA 4, LLC c/o Clean Energy, 27B Midstate Drive Suite 106, Auburn, MA 01501, for property located at Sarah Sherman Road, designated as Lot 8C, Lot 8L and 13 on Rochester Assessors Map 28. The applicant proposes to install a large-scale ground mounted photovoltaic solar array on portions of Assessor's Map 28 Lot 8C and an access drive through portions of Map 28 Lot 13 and 8L off of Sarah Sherman Road. The applicant's representative is Evan Watson of Prime Engineering, Inc., P.O. Box 1088, Lakeville, MA 02347. The property owner of record is William Souza, 139 Sarah Sherman Road, Rochester, MA 02770.

The following were present in the videoconference: Greg Carey of Clean Energy Collective, Jay Myrto of Clean Energy, Stephen Campbell of Navisun LLC, and Evan Watson of Prime Engineering, Inc.

Mr. Carey explained the property has 23 acres and the array is proposed to take up 4.1 acres at the western end in an area that is largely an open hay field. The project is a 1 MW solar installation. Mr. Watson shared his screen. He explained they received an ANRAD for their wetlands delineation and noted they filed a Notice of Intent with the Conservation Commission. Mr. Watson provided an overview of the site. He stated that some tree cutting is needed for the access road off of Sarah Sherman Road. On a Google Earth image, he pointed out trees to be removed in the location of the proposed array. Mr. Watson mentioned a third area to the south of the array where trees would be removed, and stumps and brushy vegetation left in place. In total, they will be cutting approximately one acre of trees. He stated the project is 300 feet from all property lines to the fence. Chairman Johnson corrected him saying it was 100 feet.

Mr. Watson explained they located the array farthest away from the majority of the abutters and the wetland resources. Mr. Watson noted it is 630 feet from the edge of the fence to Sarah Sherman Road. He stated the abutter to the south is closer than other abutters. The distance from the fence to their house is 250 feet. The applicant is proposing a view screening fence to the south for that abutter. In addition, they have a no cut easement with the property owner, Mr. William Souza, to avoid a site line from the road to the array.

Mr. Watson reported there will be an equipment area with two pads located to the north. He stated Ken Motta is reviewing the application for the Planning Board and has not yet given comments. Mr. Watson stated the location of the installation is very flat. He reported they have an erosion control plan and described the controls. For interconnection, they will have one pole for a recloser and four poles by the road.

Chairman Johnson asked if they have done a site line from the closest house to the array. Mr. Watson responded they have done preliminary site lines. Chairman Johnson asked if the vernal pool on site is located within the solar array. Mr. Watson replied that any vernal pools are in the wetland resource areas. He noted they are working with Chris Capone, the wetland scientist who originally flagged the wetlands. to visit and flag the exact location of the vernal pools. Chairman Johnson

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asked if they are close to the 25 feet no touch zone. Mr. Watson responded yes, in certain areas. He added that Laurell Farinon, Conservation Agent, requested that they add the vernal pools and the edge of water on the plan. Chairman Johnson asked when their next hearing is scheduled with the Conservation Commission. Mr. Watson replied June 2, 2020 and said he will introduce Mr. Capone and his report of his findings at the meeting.

Chairman Johnson stated a concern about clearing the vegetation to the property line to the south. Mr. Watson stated an area with trees will remain on the abutter's property. Chairman Johnson asked who owns the trees and Mr. Watson responded that it is Mr. Ashley, the abutter. Town Counsel Bailey explained that it is the Board's policy that any screening must be on land controlled by the applicant. Chairman Johnson suggested they screen it or put up a bond that would cover the cost of running a stockade fence the length of the property line. Town Counsel Bailey suggested a third option of an easement to preserve the trees on the other property.

A motion to continue the Public Hearing to June 9, 2020 was made by Clerk Bailey and seconded by Member Carr. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

***(Continued from May 12, 2020)* Large Scale Photovoltaic Installation Special Permit Application, Special Permit Application for Groundwater Protection, and Application for Scenic Highway filed by Braley Hill North Solar, LLC, Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA 01772 for property located at 0 Braley Hill Road, designated at Map 48, Lots 32 and 36.** The applicant proposes the construction of a ± 9.5 MW DC Ground-Mounted Solar Photovoltaic Array within the Residential/Agricultural District. An Application for Work on a Scenic Highway is being submitted concurrent with this Special Permit for the installation of the access drive off Braley Hill Road. The Property is also within the Mattapoisett River Valley Watershed and partially within the Groundwater Protection District and the Floodplain Overlay District.

Eric Las, Principal with Beals & Thomas reported he received a third peer review letter from Mr. Motta. He noted all the remaining comments are related to the front entrance of the site and access road. He provided a response on May 18, 2020 and Mr. Motta submitted a fourth peer review letter dated May 21, 2020 indicating all the comments were resolved and no exception was taken for the waiver requests. Mr. Las reported the Planning Board conducted a site walk on May 22, 2020.

He explained the final design incorporates a subsurface chamber system. The subsurface system will take runoff from the access drive and a basin. The basin that had been close to Braley Hill Road has been moved up the hill. Mr. Las explained there will be less runoff on Braley Hill Road than in current conditions. Also, since Braley Hill Road is a scenic road, they are proposing landscaping including ten plantings with two different species.

Mr. Las reviewed the final bond amounts and other calculations: two-year landscape replacement bond, \$5,050; five-year maintenance bond, \$10,200; decommissioning bond, \$463,830; timber value assessment, \$22,900; and curb cut fee, \$27,000. Mr. Las reviewed the six waivers they were seeking.

Chairman Johnson reiterated the bond amounts and rounded them as follows: timber value assessment, \$23,000; decommissioning bond, \$465,000; two-year landscape replacement bond, \$5,000; five-year landscape stormwater maintenance bond, \$10,000; and curb cut bond, \$27,000.

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A motion to approve the bond amounts was made by Clerk Bailey and seconded by Member Carr. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Chairman Johnson summarized the six waivers being requested. He noted that all the waivers were reviewed during the peer review.

A motion to accept the six waivers was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Chairman Johnson stated they will keep the Public Hearing open for one more meeting in case there are questions from the public.

A motion to continue the Public Hearing to June 9, 2020 was made by Clerk Bailey and seconded by Member Carr. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

(Continued from April 28, 2020) A Cranberry Highway Smart Growth Overlay District application was filed by Steen Realty & Development, 3 Ledgewood Boulevard, Dartmouth, MA 02747, for the construction of a mixed use development under MGL Chapter 40R for properties located at 22 Cranberry Highway, designated as Lots 41C and 50 on Rochester Assessors Map 17. The applicant proposes the construction of a development consisting of 208 residential units and commercial space within the Cranberry Highway Smart Growth Overlay District. The applicant's representative is Allen & Major Associates, Inc., 10 Main Street, Lakeville, MA 02347. The property owner of record is Rochester Crossroads, LLC, 158 Tihonet Road, Wareham, MA 02571.

Kenneth Steen of Steen Realty & Development and Phil Cordeiro of Allen & Major Associates, Inc. were present.

Mr. Cordeiro shared his screen and provided an overview of the site. He explained they made changes to the plans. Based on feedback from the traffic peer reviewer, they modified two internal intersections and added a crosswalk. Mr. Cordeiro reported they withdrew their application for a waiver to reduce the separation of the groundwater from a basin. He noted they withdrew a waiver request with the Conservation Commission for work in the 25 feet no disturb zone. Mr. Cordeiro explained they were seeking any additional comments from the Board and awaiting the peer review from Mr. Motta.

Mr. Cordeiro reported there have been discussions regarding the new ring road and access for Seasons Gas Station. He noted they are working to reach a consensus but have not reached a conclusion. He stated they would like to request the Board consider the application as filed. Mr. Steen reiterated they had multiple discussions over the last few months regarding access for Seasons Gas Station and a couple of proposals were sent back and forth. He hoped to have additional conversations. Mr. Steen noted they may not come to an agreement and the Board may have to make a decision. He added that the relocation of the road was at the Board's request. Mr. Steen mentioned the option of keeping the road in its current situation.

Chairman Johnson stated that Mr. Motta will submit his report by the next meeting. He noted that relocating the road allows for more traffic. At the same time, there is a concern about Seasons losing an access point.

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John Russell of Adler, Pollock, & Sheehan P.C. introduced himself as representing Colbea Enterprises that owns Seasons Gas Station. He explained that currently there is an access road in the rear through an easement. The rear access and line of sight is important to the business. He noted the situation is “akin to the Town taking it.” Mr. Russell stated that eliminating the access point could affect the safety and mobility of trucks that fill the underground storage tank. He noted that if they cannot come to an agreement, Colbea Enterprises will file a formal appeal. Mr. Russell reiterated that he is open to talking to Mr. Steen.

Chairman Johnson stated that at a previous meeting Mr. Russell made the same statement about business being affected. He noted they asked for traffic analysis data, but they still have not seen it. Mr. Russell responded that he will get back to Chairman Johnson the next day with the information. Chairman Johnson stated that easements can be moved with consent on both sides. He added that Mr. Russell did not mention the drainage easement. He noted that it would benefit both sides to come to resolution.

Mr. Steen stated that they believe they are within their rights to relocate the road. Mr. Russell responded that they would defend themselves, but he hoped they will not have to go to court. Chairman Johnson stated he did not think the road that was built was meant to be a permanent road.

Andrew Dell Carpini, CEO of Colbea Enterprises explained that he is in favor of the project. He stated he thought they had come to an agreement. He sent the plan to Mr. Steen and was surprised that the communication had come to an abrupt stop. He stated the one intersection will not be able to handle all the traffic.

Chairman Johnson reported that both sides indicate they are open to discussion and he hoped more discussion takes place. Town Counsel Bailey asked if any of the traffic experts provided feedback on the option of having the road stay in its current position. Mr. Steen responded that they can look into it. Town Counsel Bailey suggested that the traffic experts including the Board’s peer reviewer, look at it between the current meeting and the next meeting.

A motion to continue the Public Hearing to June 9, 2020 was made by Clerk Bailey and seconded by Member DeMaggio. **The motion passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

ADJOURNMENT

A motion to adjourn at 9:02 p.m. was made by Member DeMaggio and seconded by Clerk Bailey. **The motion was passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Marissa Perez-Dormitzer, Recording Secretary

Arnold Johnson, Chairman