

**Rochester Planning Board
Minutes of June 23, 2020**

Present: Arnold Johnson, Chairman
Gary Florindo, Vice Chairman
Bendrix Bailey, Clerk (*arrived at 7:05 p.m.*)
Lee Carr
John DeMaggio
Chris Silveira

Absent: Michael Murphy, Associate Clerk

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

The meeting convened by video conference via Zoom Meeting ID 813 9129 4451. Chairman Johnson called the meeting to order at 7:01 p.m. and stated that the meeting was being recorded. Chairman Johnson took attendance of Members and stated votes would be taken by roll call.

BOARD BUSINESS

Vouchers

A motion to approve a voucher for W.B. Mason/Office Supplies/Invoice # 211148117 in the amount of \$156.57 was made by Member Carr and seconded by Vice Chairman Florindo. **The motion was passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

A motion to approve a voucher for W.B. Mason/Office Supplies for the Board Administrator in the amount of \$21.77 was made by Member Carr and seconded by Member DeMaggio. **The motion was passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

A motion to approve a voucher for The Wanderer/Invoice # 7840 Featherbed Lane in the amount of \$60.00 was made by Member Carr and seconded by Member DeMaggio. **The motion was passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

A motion to approve a voucher for The Wanderer for advertising the Connet Woods acceptance plan in the amount of \$60.00 was made by Member Carr and seconded by Member DeMaggio. **The motion was passed in a roll call vote of 5 in favor, 0 opposed, 0 abstained (5-0-0).**

(Clerk Bailey arrived at 7:05 p.m.)

Mullin Rule Affidavit

Chairman Johnson asked if Member DeMaggio had filled out the following Mullin Rule Affidavits: Sarah Sherman Road/ Rochester MA 4, LLC c/o Clean Energy and Cranberry Highway/ Steen Realty & Development. Member DeMaggio stated he would fill out the forms and return them.

INFORMAL HEARING

Bayside Agricultural, Inc. and Renewable Energy Development Partners, LLC, Eldredge Bogs Canal Improvement and Canopy Solar Project

(Vice Chairman Florindo recused himself.)

Sarah Stearns, Wetland Scientist, of Beals and Thomas, Inc. introduced other participants involved in the project including Thomas Melehan and Henry Ouimet of Renewable Energy Development

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Partners, Iain Ward of New England Consulting Services, Inc., and Peter Beaton, property owner, of Bayside Agricultural, Inc.

Ms. Stearns reported they had a technical review meeting and were in the process of review with the Conservation Commission. She shared her screen showing an aerial map of the site. Ms. Stearns explained their proposal includes an agricultural project to improve the canal system as well as a 1 MW AC solar array raised above the reconstructed canals. She showed a photo of a frame over a culvert at another project and explained the solar panels would be above the canal and anchored on the dike road. She noted there is no tree clearing proposed and there is a significant wooded buffer surrounding the property. All the work is proposed on land in agricultural use. She noted they were hoping to file with the Planning Board in the next week or so.

Chairman Johnson stated a 100 feet setback is required and it appeared they did not meet the requirement in some locations. Ms. Stearns confirmed there is one location not meeting the setback requirement. She asked if they would need to request relief from the Zoning Board of Appeals (ZBA). Chairman Johnson responded that the Planning Board could not waive the requirement. He suggested they try seeking relief from the ZBA, but the ZBA had already turned down one applicant. He noted they were making the canals and creating the hardship. Ms. Stearns responded that the locations for the canals are constrained. Chairman Johnson suggested filing with the ZBA before filing with the Board since the result could impact the project. Ms. Stearns asked if the Board would consider conditional approval and Chairman Johnson responded probably not.

Chairman Johnson stated the peer review fee would be \$3,000.00. Ms. Stearns asked if the Planning Board would use the Conservation Commission's peer reviewer. Chairman Johnson responded no. Chairman Johnson asked if the panels would be visible from Pierce Street and Ms. Stearns responded no.

(Vice Chairman Florindo resumed his role in the meeting.)

PUBLIC HEARINGS

A Special Permit Application for Groundwater Protection, 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.

Chairman Johnson explained the Public Hearing for the solar portion of the project was already opened. It was later discovered that the property is in the Groundwater Protection District. The Board will conduct the two hearings as one hearing.

A motion to concurrently run the two Public Hearings was made by Clerk Bailey and seconded by Vice Chairman Florindo. **The motion was passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

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(Continued from June 9, 2020) 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.

Greg Carey introduced the other participants involved in the project including Jay Myrto of Clean Energy, Stephen Campbell of Navisun LLC, and Richard Rheume and Steve Kohm of Prime Engineering, Inc. He stated that Richard Rheume and Steve Kohm would be their representatives.

Mr. Carey reported that Ken Motta was in the process of reviewing the project. He mentioned a few updates to the project including the following:

1. A draft of the screening easement with Sherry Ashley had been prepared and sent to Ms. Ashley's attorney and Town Counsel Bailey.
2. Mr. Carey suggested a decommissioning bond estimate of \$114,000.00. He explained it was the same amount for a solar installation on Mattapoissett Road, a slightly larger project.
3. They submitted a site line profile from the neighbor's house to the south to the array.

Town Planner Starrett reported the site line drawing should have gone two feet higher in elevation. Chairman Johnson stated the Board would accept the decommissioning estimate.

A motion to continue both Public Hearings to July 14, 2020 was made by Clerk Bailey and seconded by Member DeMaggio. **The motion was passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

Chairman Johnson reported the next Planning Board meeting would take place at Rochester Memorial School and shared via Zoom.

A Special Permit Application for Groundwater Protection, 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.

Chairman Johnson stated the property is in the Groundwater Protection District.

A motion to run the Public Hearings concurrently with the solar application was made by Member Carr and seconded by Member DeMaggio. **The motion was passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

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(Continued from June 9, 2020) 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, Inc. stated the applicant was requesting a continuance to the next meeting to allow time to respond to the peer review letter that had been received that day.

A motion to grant the continuance to the next meeting was made by Member DeMaggio and seconded by Vice Chairman Florindo. **The motion was passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

(Continued from June 9, 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 reported there was a site walk the previous week. Mr. Steen stated that Seasons submitted an alternative driveway arrangement. He added that they were reviewing the proposed lease.

Chairman Johnson stated the Board requested information on turning radiuses at the last meeting and it was not submitted. He reported the Fire Chief had sent a letter about changes to the fire protection booster pumps. Mr. Cordeiro and Mr. Steen had not seen the letter. Chairman Johnson mentioned he would visit the site during the next week since he had missed the group's site walk. He noted that Ken Motta had sent out a memo after the site visit with some comments. Chairman Johnson stated that they had not heard from the Board's traffic peer reviewer and were not ready to close it out. Mr. Cordeiro stated that the peer reviewer sent a summary letter on June 19, 2020.

Mr. Steen asked if the Board had received the updated plan from Seasons. Town Planner Starrett stated that he was instructed not to present it to the Board if it was not sent from the applicant. He noted there was a traffic study that was submitted after the deadline for the Members' packets.

Andrew Delli Carpini, CEO of Colbea Enterprises explained they hired VHB for a traffic study, but they let him know they could not do the traffic study due to a conflict of interest. Mr. Delli Carpini stated they found another company to do the traffic counts and the information was shared. He reported they redesigned the site layout as requested by Member Silveira and the revised design

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includes truck radiuses. Mr. Delli Carpini stated they had been working diligently to get the work done. He noted they had not heard back about the lease agreement.

Mr. Cordeiro shared his screen showing the plan. Mr. Delli Carpini stated it was not the latest plan. He explained they moved the parking behind the building to the road on the side. Chairman Johnson stated he had not seen the plan and asked Town Planner Starrett if it was received. Town Planner Starrett reiterated that they had agreed it would not be submitted to the Board if it was not submitted by the applicant. Chairman Johnson explained that Mr. Steen would need to be in support of the design so that the curb cut could be in place when they build the ring road.

John Russell of Adler, Pollock, & Sheehan P.C. representing Colbea Enterprises stated he sent the draft lease on June 5, 2020. He noted that the previous night Mr. Steen had sent a design with the connection point moved from the new ring road closer to the 40R project. Mr. Russell mentioned the plan they presented with revised turning radiuses better takes safety into account. He noted there is an easement and it is not simple to move the current access since it would need to be amended. Mr. Delli Carpini stated a concern about the proposed location of the exit and noted that keeping cars off the ring road is beneficial. Mr. Steen stated his professionals had concerns with the plan from Seasons because trucks exiting from the road closest to 58 will have to cross over and that the distance is not sufficient to allow proper cueing.

Town Counsel Bailey stated he thought the request was that trucks exiting would not cross over a lane. He did not think there was an issue with the location of the intersection. He noted that looking at the radiuses on the plan, the Seasons plan does not address Member Silveira's concern.

Chairman Johnson commented that the lease agreement between Mr. Steen and Seasons is a civil matter. He stated that he had seen Mr. Steen's new plan and noted that the current access point sits on a curve and it should not be a concern. He stated that traffic flow would be improved if vehicles can turn both left and right. Chairman Johnson reported the access easement was created by the Planning Board as a stand-alone project. They knew that at some point the property would be developed and reserved the right to move the road. He noted it is Mr. Steen's application and he will need to keep a second access point for Seasons. Vice Chairman Florindo stated he drives tractor trailers and suggested pulling back the bull nose on the exit and making it a little wider. Mr. Russell commented he was unsure how the easement could be moved as part of the 40R project. Chairman Johnson explained that the easement is against the terms of the Board's approval. Mr. Steen stated he wants to ensure that his traffic engineer and other professionals agree the intersection will provide safe access. He added that he is being told that the Seasons plan does not do that.

Town Counsel Bailey stated he would review the decisions related to the project. He reported the decision acknowledges that access may change, and Seasons did not appeal the decision. He suggested that Seasons read the decision and the minutes.

Mr. Russell suggested that Mr. Steen's attorney call him regarding the easement. He asked if Mr. Steen would share the traffic report from his professionals. Mr. Steen responded by asking Mr. Russell to share the back up for their plan. He added that Mr. Russell should provide a written report to substantiate that layout. Mr. Russell noted they keep providing additional information and there is no progress. Mr. Delli Carpini stated that it seemed like they were taking steps backwards. He noted the only difference in the plan is that they were asked to make the radiuses gentler for the tractor trailers. He stated he is not clear where their plan shows trucks crossing the line.

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Town Counsel Bailey suggested having the Board's traffic engineer review both proposals and report back to the Board. Chairman Johnson noted the project is a nice addition to the town and the Board will submit both variations to the traffic engineer the next day and he can provide the pros and cons of each plan. Mr. Delli Carpini stated they sent a revised plan the previous Friday that had the parking re-located because of drainage easements. He said he wanted the Board's traffic engineer to look at the latest plan. Chairman Johnson stated it should be sent to Town Planner Starrett.

A motion to continue the Public Hearing to July 14, 2020 was made by Member Carr and seconded by Member DeMaggio. **The motion was passed in a roll call vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

DISCUSSION

Final Decision/Braley Hill Road Solar

Chairman Johnson reported that Clerk Bailey emailed him with a concern about the use of herbicides in the Groundwater Protection District. Chairman Johnson stated they could incorporate in the decision an allowance to use glyphosate-containing herbicides via special permit. The applicant would need to have approval from the Mattapoisett River Valley Water Supply District Commission (MRVWSDC) prior to application and provide proof to the Planning Board.

Clerk Bailey asked about adding the phrase "such approval not to be unreasonably withheld." He stated there is a lot of false information circulating and there may be some people opposed without scientific basis. Town Counsel Bailey suggested if the MRVWSDC denies the application, there could be a Planning Board hearing with the applicant and an MRVWSDC representative.

Chairman Johnson expressed a concern about Clerk Bailey's suggested phrase indicating that if the MRVWSDC does not approve, the Planning Board would approve anyhow. Town Counsel Bailey clarified that if not approved by the MRVWSDC, it would come back to the Planning Board for a vote.

Chairman Johnson noted they were talking specifically about glyphosate. Clerk Bailey clarified that his comment referred to herbicides containing glyphosate as one example. Town Counsel Bailey suggested not limiting it to one product and to use the term herbicide. Chairman Johnson stated they would hold off on the decision and Town Counsel Bailey said he would make the change.

ADJOURNMENT

A motion to adjourn at 8:44 p.m. was made by Member DeMaggio and seconded by Member Carr. **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