

**Rochester Planning Board
Minutes of March 12, 2019**

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

Absent: Michael Murphy, Associate Clerk

Steven Starrett, Town Planner
Marissa Perez-Dormitzer, Recording Secretary

Chairman Johnson called the meeting to order at 7:00 p.m. in the Town Hall Meeting Room and made everyone aware that the meeting was being televised and recorded via digital audio recorder.

BOARD BUSINESS:

Minutes

A motion to approve the minutes of February 26, 2019 was made by Clerk Bailey and seconded by Member Carr. **The motion passed by a vote of 4 in favor, 0 opposed, 0 abstained. (4-0-0).**

Discuss Zoning By-Law Amendment: Marijuana By-Law

Chairman Johnson stated there was a concern at the last meeting about limiting outdoor growing. Town Counsel Bailey was present at the meeting. He explained that state regulations limit outdoor growing to 100,000 square feet of canopy. The regulations also require a perimeter fence that is sufficiently lit for cameras to pick up activity. Also, each plant must be tracked from seed to sale. Marijuana has a 120-day cultivation period making it more suitable for indoor cultivation on a commercial scale. Town Counsel Bailey stated that security would be a concern from the standpoint of the Town. If a site had sufficient security, the location would be a concern since it would be lit at night.

(Member DeMaggio arrived at 7:05 p.m.)

Town Counsel Bailey stated that marijuana is not considered an agricultural crop and does not fall under the Right to Farm Bylaw; it is considered a business. However, hemp is considered agriculture. There are two entities in Town with a license to grow hemp. Hemp is excluded from the marijuana bylaw. Town Counsel Bailey stated that hemp is legal under federal farming regulations.

A motion to refer the Marijuana By-law to the Board of Selectmen 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).**

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Mullin Rule

Member Silveira signed a Mullin Rule Affidavit for 15 Cranberry Highway Site Plan Review, Darras / Rounseville Road Site Plan Review and REpurpose Properties / Rounseville Road Special Residential Development Special Permit for a meeting missed on February 26, 2019.

DISCUSSION

Smart Growth Zoning Bylaw

Town Counsel Bailey distributed a revised copy of the Smart Growth Zoning Bylaw. He stated that the bylaw had some blanks in it when the Planning Board referred it to the Board of Selectmen at the February 26, 2019 meeting. Town Counsel Bailey reviewed the missing information. On the revised copy, the blanks were filled in. The bylaw was submitted to the state. The state has to approve it as well as Town Meeting.

A motion to submit the amendment to the Zoning By-Law for the Cranberry Highway Smart Growth Overlay District to the Board of Selectmen 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).**

Draft Decision for 15 Cranberry Highway, LLC / Site Plan Review

Chairman Johnson referred Planning Board members to Standard Condition #13 on the Draft Site Plan Review Decision. It states “Residual material or unsuitable material such as rock and other materials not designated for reuse will be removed from the site.”

Chairman Johnson stated that the condition needs to be changed. As an example, he stated on Mendell Road, they removed material without a permit from the Soil Board because they said it was unusable material. The intent is that any material leaving the site requires a permit from the Soil Board if necessary, under the regulations.

Town Counsel Bailey stated that subdivisions are excluded from the Soil Board regulations. He suggested requiring that any earth removal from the site needs to have a permit from the Soil Board. There was discussion about how best to word the condition. Clerk Bailey suggested replacing the condition with two conditions – 1. Before removing material from the site, they need to obtain a permit from the Soil Board and 2. No refuse or rubble piles will be created without prior approval of the Planning Board. Town Counsel Bailey responded that the proposed condition would be more enforceable than the word “unsuitable”.

Town Planner Starrett asked Chairman Johnson if they would keep the language as it is for the decision being reviewed. Town Planner Starrett will develop language for the two conditions. Member Silveira suggested adding language about minimizing cuts and fills to minimize material removed.

Clerk Bailey stated there may be an issue if the Planning Board gives a permit for a project that requires a cut in elevation and the Soil Board doesn't give a permit for the material. Town Counsel Bailey stated that to receive a permit from the Soil Board, they will have to comply with their parameters.

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Vice Chairman Florindo, who is also a member of the Soil Board, stated that under 1,000 yards of material can be moved around without a permit from the Soil Board. One of the objectives of the Soil Board in reviewing permit applications is to control the number of trucks traveling on Town streets.

Chairman Johnson referred to #3 on the draft special conditions: "Any future development of the remaining land N/F Decas Real Estate Trust, must comply with the Performance Standards & Design Criteria for Stormwater Management Systems – Appendix A with respect to the quantity and quality of any additional stormwater discharge into the existing detention basin."

Chairman Johnson stated that Decas won't own the land; they'll still own the adjacent parcel. Town Counsel Bailey suggested stating that "no stormwater systems shall be connected into this proposed system unless it meets the standard." Chairman Johnson stated that Ken Motta told him years ago the Planning Board approved two buildings on the parcel and the stormwater system serviced both buildings. Ken Motta is concerned that Decas Real Estate Trust might retain easement rights in the new deed and use the proposed stormwater system.

Chairman Johnson stated that the necessary changes will be made and the decision will be voted on at the next meeting.

IGS Solar (formerly Melink) Snipatuit Road

Town Planner Starrett stated there is a question of whether IGS Solar is required to plow snow. The Members agreed that the Planning Board's Decision had required IGS Solar to maintain access. Town Planner Starrett stated that clearer language will be incorporated in the future. Chairman Johnson added that letters should be sent to IGS Solar and any other solar installations that didn't plow the snow.

Town Planner Starrett stated IGS Solar sent a crew that repaired the fence and also submitted photos. The shrubs will be fixed in better weather. Town Planner Starrett has not yet verified the repaired fence.

Clerk Bailey asked if the Planning Board should unvote the taking of the bond. Chairman Johnson responded that they should wait until the visual inspection is completed.

Borrego Solar Rounseville/Mendell Road Solar Project

Town Planner Starrett stated Borrego Solar finished the excavation they had proposed and proceeded to put in the racks. He is waiting for as-built plans on the racks before being allowed to put up panels. Chairman Johnson added that Borrego Solar has not yet submitted a drainage plan. He stated that the racking won't be inspected until the as-built and the drainage plan is submitted. Town Planner Starrett stated the racking will be up in another week or two.

Ms. Bindas, a resident on Mendell Road, stated there was brown water at the site today. Town Planner Starrett confirmed that he and Ken Motta had seen the brown water. Ms. Bindas asked if foam was the only method for extinguishing a fire at the solar installation and expressed a concern that the Town may not have the required equipment. Town Counsel Bailey stated that the Town likely has the necessary equipment and will verify with the Fire Department.

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Connet Woods

Clerk Bailey stated that he researched the Declaration of Trust and the various lots that will revert to the Town. He added that the question is who will pay taxes. In the Declaration of Trust, there are two categories of lots which are not house lots. One is a category of lots which go with the road; these are lots A through N. On the tax map, he was able to find all lots except E & G. The other category is open space that will be deeded to the Massachusetts Farm Bureau and the Agricultural Preservation Corporation and will not be subject to taxation. Of those lots, Clerk Bailey could not find 5 of the lots that are mentioned. He stated there is a typo; one lot DR-4A is mentioned twice. Also, there are 7 lots on the tax map that don't appear in the Declaration of Trust.

Town Counsel Bailey asked if the tax map lines up with the subdivision plan. Clerk Bailey stated yes. There are also two parcels that are landlocked that are not designated as open space lots. Chairman Johnson stated those lots are not owned by Connet Woods. Clerk Bailey stated it would be worth asking Town Planner Starrett to identify the discrepancies.

Chairman Johnson stated that Connet Woods should resolve the issues and not the Town Planner. Town Counsel Bailey stated he could send a letter to their attorney. He also stated he could take the subdivision plan to the Board of Assessors to clear up the discrepancies. Clerk Bailey stated he will send a memo to Town Counsel Bailey.

TOWN PLANNER UPDATES

Town Planner Starrett stated that the application for the solar installation on Craig Canning's property will be submitted shortly. It will be set back 300 feet back and proposed as a 5MW facility, the largest one in Town.

ADJOURNMENT

A motion to adjourn at 7:45 p.m. was made by Member DeMaggio and seconded by Clerk Bailey. **The motion was passed by a vote of 6 in favor, 0 opposed, 0 abstained. (6-0-0).**

Marissa Perez-Dormitzer, Recording Secretary

Arnold Johnson, Chairman