

**Rochester Planning Board  
Minutes of January 15, 2021**

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

Absent: Michael Murphy, Associate Clerk

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

The meeting convened in-person and via Zoom Meeting ID 811 3444 2333. All Members joined in-person at the Rochester Memorial School. Chairman Johnson called the meeting to order at 7:07 p.m. and stated the meeting was being recorded.

**PUBLIC HEARINGS**

***(Continued from December 8, 2020)*** A Site Plan Review Application for a Solar Installation, filed by Paul Eaton of Trinity Solar, 20 Patterson Brook Road, Unit 1, West Wareham, MA 02576, for property located at 323 Rounseville Road, Rochester, MA 02770, designated as Lot 6A on Assessor's Map 34. The applicant proposes to install twenty-five 7.875kw solar panels on the roof of the building. This will add 6" to the height of the roof but not exceed the panel. The property owner of record is Rochester Golf Club, 323 Rounseville Road, Rochester, MA 02770.

Chairman Johnson reported the Board had asked the applicant to submit a request for the waivers. The request was included in Members' packets of information. He explained it was a simple solar project on the roof of a building that required limited site plan review.

Chairman Johnson reported the waivers requested from Trinity Solar on behalf of the Rochester Golf Course were the following:

1. Town's Zoning By-Law, Section 16.1.10 Site Plan Details in its entirety
2. Town's Zoning By-Law, Section 16.1.3. the applicant requested a waiver for the \$3,000.00 peer review fee.

A motion to approve the waivers 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).**

A motion to close the Public Hearing 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 December 8, 2020)*** 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

**Rochester Planning Board  
Minutes of January 15, 2021**

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.

Chairman Johnson stated the Board received a request on behalf of the applicant to continue to February 9, 2021 to allow time to review the recent peer review comments and provide a response.

A motion to continue the Public Hearing to the first meeting in February 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).**

**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.

Chairman Johnson stated the Board had voted to close the Public Hearing at the last meeting. However, after speaking with Town Counsel Blair Bailey, it was determined they needed to reopen the Public Hearing to accept documents not originally included in the filing.

A motion to reopen the Public Hearing for the Smart Growth Overlay District site plan review 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).**

Town Planner Starrett reported that three documents were submitted and Chairman Johnson stated they were reviewed by Ken Motta of Field Engineering.

A motion to close the Public Hearing 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).**

The discussion then moved to the draft decision. Chairman Johnson reported the applicant was seeking extended construction hours. Typically, construction is allowed on Saturdays from 9:00 a.m. to 5:00 p.m. with heavy equipment not allowed on Saturdays, Sundays, or holidays. The applicant requested the use of heavy equipment on Saturdays from 7:30 a.m. to 5:00 p.m. and for general construction to start at 7:00 a.m. on Saturdays. After discussion, Members and the applicant agreed that heavy equipment use would be allowed on six Saturdays on a provisional basis and the Board would re-evaluate the situation. Clerk Bailey suggested that Town Planner Starrett contact abutters to ask how the construction was affecting them. Members agreed to allow regular construction to start at 7:00 a.m. on Saturdays. Clerk Bailey stated he was comfortable with the Chairman deciding on a request to work on Sundays or holidays under an unforeseen emergency. Chairman Johnson noted in Condition 15 he wanted to add that visits to the site would be limited to normal working hours "unless an emergency arises." Members and the applicant also agreed on adding to Condition 15 "or a scheduled site visit with prior approval of the owner."

There was discussion about wording in Special Condition 4 referring to specific gallons per day of water usage. Mr. Steen of Steen Realty & Development explained they had proposed deleting the

**Rochester Planning Board  
Minutes of January 15, 2021**

text since they had a pending request to the Town of Wareham Water District that would heard the next evening. Town Counsel Bailey preferred to remove the redlined text because the numbers were a moving target and it was the jurisdiction of the Board of Selectmen and the Wareham Water District. Chairman Johnson stated the decision referenced their stormwater and septic based on specific gallons provided to Field Engineering. Town Counsel Bailey stated the amount of water required per day for a septic system was under the Board of Health's jurisdiction. Chairman Johnson explained that their septic and drainage basins were close and if they put more water into the system, they could have a drainage problem because the drainage calculations would not be correct. Member Silveira agreed and stated the Board approved the set of plans that incorporated their usage numbers and those numbers were used to determine the mounding analysis was correct. With increased water usage to the septic system, there might be a problem with the separation waiver the Board approved. Town Counsel Bailey noted that actual water usage would be much less than the numbers indicated in the decision. Chairman Johnson concluded they would leave in the redlined text and speak with Mr. Motta about the comments from Town Counsel.

Chairman Johnson noted they would have to ensure proper sizing of the trash dumpsters prior to issuance of occupancy permits. He also stated that the handicapped spaces would need to be consolidated. Ken Motta indicated the changes were not made in the latest plan so the Board would leave it in the decision. Mr. Steen mentioned he would confer with Phil Cordeiro about the spaces. Vice Chairman Florindo asked when they would start renting the apartments. Mr. Steen explained the infrastructure, driveways, and public safety equipment would need to be significantly complete before they moved in people.

Danielle Dufault, an attorney representing Colbea Enterprises, asked that one of the conditions be to include the easement agreements for the new access. Town Counsel Bailey stated they could do that.

***(Continued from November 10, 2020) 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  $\pm 3.9$  MW DC Ground-Mounted Solar Photovoltaic Array within the Residential/Agricultural District. The property is also within the Mattapoisett 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. Harrison provided information about the right of way. He explained it was accessed from Robinson Road, crossed the Mann family property, crossed two parcels owned by two different Kozcera family members, and then reached the locus property. He reported the title work for the right of way had been provided to Town staff and dates back to the 1890s when Alden Rounseville sold some of his surrounding land including the Mann parcel but preserved the right of way. Mr. Harrison reported that attorneys from both the property owner and Sunraise Investments had reviewed the title for the right of way and were all in agreement. He noted they had a goal of executing access agreements with the abutters to codify the details and provide protections.

**Rochester Planning Board  
Minutes of January 15, 2021**

Mr. Las shared his screen showing an overview of the access route. He noted the project was also before the Conservation Commission and they were working through the peer review process. He stated the access road was approximately 2,300 linear feet. The project would take place on 15 acres out of the total 51 acres. The property included land in Acushnet. Mr. Las explained the wooded buffer on the site would remain. He noted the nearest residence to the southeast was more than 1,200 feet from the edge of the fence. From the Koczera, Jr. family property, it was 726 feet to the edge of the fence and 1,500 feet to the buildings on the Mann property. Mr. Las showed the plan set. He noted the initial submission was in September. Since then they received comments from Mr. Koczera and their engineer David Davignon and revised the plan set. They received another letter on January 7, 2021 from Mr. Davignon.

Mr. Las explained the entrance would be temporarily widened more than the 20 feet right of way to facilitate construction vehicle access. Afterwards, it would be replanted and narrowed back to the 20 feet. They were proposing concrete encasement of existing septic pipes so they would not be damaged during construction. They have done a micro topography of the right of way and would maintain the existing grade in the construction of the road. The drainage pattern would be the same as existing. They would have sedimentation control that would allow the Mann's and Koczera's to access the other side of their properties. He explained there would be some clearing outside the fence of the solar installation. Inside the fence, trees would be cleared and grubbed. There would be temporary basins and the water leaving the basins would not exceed predevelopment condition. The proposed electrical equipment and battery storage were located near the entrance to the site. Mr. Las requested that the Board request Field Engineering do a peer review.

Chairman Johnson asked if the battery storage was outside the Groundwater Protection District and Mr. Las responded yes. Vice Chairman Florindo asked if there were areas where stockade fence was needed for screening. Mr. Las explained it would not be needed given the setbacks and existing vegetation. He noted that he knew Field Engineering would do a siteline review and analysis.

Chairman Johnson reported there were several letters in Members' packets including one from an engineering firm representing Julie and Mike Koczera, one from Kim Ryan, and another letter supporting what Ms. Ryan stated. Chairman Johnson mentioned he called Mr. Davignon and reviewed the points in his letter. He stated that Mr. and Mrs. Koczera requested some screening be provided where the wooded areas will be thin. Chairman Johnson noted he would need feedback on the type of screening they were seeking. Mr. Davignon of Schneider, Davignon & Leone, Inc., representing Julie and Mike Koczera, stated the Koczera's were requesting a gate at the beginning and end where the project crosses their property. Chairman Johnson responded that the gates would have a Knox box with a key for fire and police access to the site.

Chairman Johnson stated he spoke with Kim Ryan and reviewed the points in her letter. He mentioned the requirements for a site visit which included staking the center line of the right of way from Robinson Road, staking the limit of work and the edge of the panels. Mr. Las said he would provide a key sheet with numbers for the stakes.

Lisa and David Mann of 8 Robinson Road were present. Ms. Mann explained that her property was the main right of way for the project. Her and her husband hired an attorney who sent a letter to the solar company in November challenging the legality of the right of way. There was no response to the letter. Ms. Mann stated they had no agreements in writing with the solar company. She explained the right of way is their driveway and splits their property in half. They run a horse farm

**Rochester Planning Board  
Minutes of January 15, 2021**

and have many concerns about safety that had not been addressed. She noted this was the first project in the Town that crosses someone else's property. Chairman Johnson stated the right of way would be reviewed by Town counsel. He noted that the Board could set hours for construction and encouraged Ms. Mann to provide input regarding her busiest times.

Julie and Mike Koczera, 2 Robinson Road, and Mike Koczera, Sr., 4 Robinson Road, were present. Ms. Koczera reported that the right of way would split their property in half with the house on one side and the septic field and hay field on the other side. She was concerned about the construction and its impact on them and asked if the Board would put in safeguards to protect their property. Regarding the screening, she stated it was difficult to know since a stone wall might be taken down. Chairman Johnson noted the Board could add a condition that the screening would be determined after the road was built. He explained the access road is typically 16 feet to accommodate a fully loaded fire truck and would have a gravel surface.

Ms. Koczera mentioned she and her husband sent a letter to the Board and had not received a response. Chairman Johnson provided responses to the concerns mentioned in the letter. He confirmed there had not been a project that crossed over property not controlled by the applicant. The response addressed the Board's diligent follow-up on decisions, snow removal, bonds required by the Board, prohibition of the use of herbicides in the Groundwater Protection District, and a description of the utility connections. Ms. Koczera noted the required bonds addressed the construction site but not the access road. She was concerned about the applicant's vehicles going off the road and causing ruts in her field. Town Counsel Bailey stated they could require a bond for the road itself but they could not require a bond to protect the Koczera's property. Mr. Harrison responded to a comment about noise from the poles and said there would not be any noise. The transformer would be at the solar facility. Town Counsel Bailey stated he hoped there would be a formal agreement with the abutters before the decision was issued. Ms. Koczera asked about protection for the pipe under the road for her septic system. Town Counsel Bailey responded that it would be part of the decision and they could put it in the bond. Ms. Koczera asked who would ensure that they stay in their bounds. She said that Mr. Koczera, Sr. asked if a certificate of insurance could be required for everyone crossing the access road. Town Counsel Bailey stated he could request it; however, it would be difficult to enforce.

Vice Chairman Florindo asked if it was a new or existing road. Chairman Johnson responded that it was both. Member DeMaggio asked to confirm if it was an easement, right of way or ancient way. Town Counsel Bailey stated the applicant had presented that they have a right of way to pass and repossess to reach the property. The dispute is over what legal rights come with the right of way. Town Counsel Bailey noted the Board does not address property rights.

Chairman Johnson asked how long it would take to stake and Mr. Las said it could be done within a week. Chairman Johnson noted they could not schedule a site visit until they were told it is done.

A motion to continue to the next Public Hearing to February 9, 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).**

**BOARD BUSINESS**

***Discussion***  
**Connet Woods**

**Rochester Planning Board  
Minutes of January 15, 2021**

Chairman Johnson stated the Board had approved an extension for a restoration plan of an old gravel pit in a plan approved in 2007. Since a lot of the land had revegetated on its own, he said it did not make sense to require them to complete the restoration plan. The Board would need to schedule a site visit to make sure there were no stump piles and for Mr. Motta to gather information to figure out the bond adjustment. Chairman Johnson also mentioned the developer would need to decide if they will build houses on the old cranberry bog so the Board can set the correct bond amount. If they do not build homes there, the Board would need to officially lower the number of homes approved. He noted if they let the old gravel pit naturally revegetate, it would be a major shift from the plan and would require reopening of the hearing. Members agreed to a site visit on January 23, 2021 at 9:00 a.m.

**Tri-Party Agreement on Plumb Corner Project**

Town Counsel Bailey reported he made edits to the agreement between the Town, the bank, and the Plumb Corner developers. Town Planner Starrett asked when they could start construction. Town Counsel Bailey responded that he would review the decision to ensure they have done everything needed. Once the bond was in the place, they could start. Town Planner Starrett noted they would like to put in the 40-foot apron. Chairman Johnson said it would not be allowed until April.

**Route 28 Area Transfer Station**

Chairman Johnson reported that the Town of Wareham took over the transfer station in Rochester and did work without permits from Rochester. Town Counsel Bailey stated he reviewed photos of the work and it appeared that the work done amended the original site plan. He noted the work might also impact the Conservation Commission's approval.

A motion to send a letter to Wareham and copy the Carver Marion Wareham Regional Refuse Disposal District and ask them to come before the Board to explain what they were doing was made by Member Carr and seconded by Member DeMaggio. **The motion passed by a vote of 6 in favor, 0 opposed, 0 abstained (6-0-0).**

**Dropbox**

There was discussion about the need for more storage in Dropbox. Chairman Johnson asked Tanya Ventura, Board Administrator, to request pricing for additional storage. Clerk Bailey stated a concern about folders being deleted like had happened that day. Chairman Johnson asked if Ms. Ventura would move the documents back to Dropbox when there is more space and Ms. Ventura responded yes. Town Planner Starrett noted the office would start storing files off site to free up space in the Annex. He would be putting in a request for \$1,200 for the offsite storage.

**ADJOURNMENT**

A motion to adjourn at 9:41 p.m. was made by Member DeMaggio and seconded by Member Carr. **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