

PLANNING BOARD
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Christopher Cooper, Chairman
Robert Moitozo, Vice Chair
Edward Bertozzi
Tomas Ennis
William Costa Sr.
Jake Kramer
Tish Vadnais
Lynne Ferreira, Assoc. Mbr.
Daniel Roach, Town Planner

**Meeting Minutes
November 18, 2020
Remote Meeting
7:00 PM**

Present: Christopher Cooper, Robert Moitozo, Edward Bertozzi, Tomas Ennis, William Costa Sr., Jake Kramer, Tish Vadnais, Lynne Ferreira, Associate Member, and Daniel Roach, Town Planner.

Absent:

Mr. Cooper began the meeting with the Pledge of allegiance at 7:02p.m.

Minutes

1. August 19, 2020
2. September 2, 2020

Mr. Costa made a motion to approve the above-named meeting minutes.

Mr. Ennis seconded the motion. Roll call vote; all replied aye. Motion passes.

New Business

1. 242 Anawan Street - Discussion

Mr. Roach stated that Mr. bertozzi had sent him a drafted letter to send to Town Counsel.

Mr. Bertozzi read the drafted letter to the board for review.

Mr. Bertozzi made a motion to send the drafted letter to Jay Talerman, Town Counsel, for his review and comments.

Mr. Costa seconded the motion. Roll call vote: Mr. Cooper – aye, Mr. Moitozo – Aye, Mr. Bertozzi – aye, Mr. Ennis – aye, Mr. Costa – aye, Mr. Kramer – aye, Ms. Vadnais – nay, Ms. Ferreira – aye. Motion passes.

Mr. Ennis stated that it looked like cars were being sold on the property.

Mr. Cooper stated that all the board can do is ask them to file a Site Plan for approval.

2. Subdivision Control Law – Additions – Discussion

Mr. Roach reviewed the item the board had been discussing. The potential changes are being reviewed by Town Counsel.

3. Retreat Lot Discussion – 41 Dean Street

Mr. Roach stated that he had heard back from Town Counsel. Their recommendation would be that the owner would need to refile a new plan. Mr. Costello, the attorney that represented the property owner, was told he would be advised of what the board recommended he do.

Mr. Cooper asked if they refile a new plan, that would remove the part of the plan that states retreat lot?

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Mr. Roach stated that is what would happen.

Mr. Bertozzi stated that he thought Mr. Costello wanted to remove the designation retreat lot. They wanted to build closer to the road. He thought that that the applicant wanted to file a new Form A that would remove the designation of retreat lot and give us a recordable restriction. The restriction would be for no further division of the lot.

Mr. Roach stated that is correct. Town Counsel agreed with everything you just stated Mr. Bertozzi.

Mr. Cooper stated that his questions is if somebody comes in the future and files a retreat lot and doesn't build on it. What prevents them from coming back and rezoning that land saying it's a Form A lot now if it meets these specific requirements?

Mr. Moitozo stated that 200' of frontage is what restricts most of them.

Mr. Bertozzi stated he didn't understand how a retreat lot limitations are enforced.

Mr. Cooper asked if the board was in general agreement that if it is filed as new ANR plan with the restriction that Mr. Bertozzi mentioned we are ok with this?

A roll call vote was taken for the soul purpose of agreement; all replied aye.

Mr. Cooper stated that to be clear this is not a binding vote; it is saying if they move forward in this direction, we are supportive of it.

Mr. Moitozo asked if the board wished to see a certain type of language on the Form A?

Mr. Roach started that with the last Form A that we had drafted language on, we had the attorney of the applicant draft it and then had Town Counsel review it.

The board agreed.

Public Hearings

1. 90 Pond Street – Rehoboth Renewables – 19-01 Solar, 19-03 SPA, 19-04 GWSP

Mr. Steve Gioiosa of SiTec Engineering was present.

Mr. Gioiosa presented revised plans that included: increased no disturbance buffer to 75' on Wilmarth Bridge Road and Pond Street; that the perimeter fencing was relocated on an area on Wilmarth Bridge Road, it will be higher on the landscape to raise the screening, similar changes were made on Pond Street. The changes do not impact any of the proposed plantings. They are also move plantings; this did not change the number of plantings.

Mr. Cooper stated that one thing that was mentioned previously was anything having to do with the effects of a solar farm on real estate values on abutting properties. Mr. Roach did you hear back from Fuss & O'Neil?

Mr. Roach stated he had. Fuss & O'Neil does not off this service.

Mr. Cooper asked Mr. Gioiosa if he had any comment on this?

Mr. Gioiosa stated that any project that is proposed on this land is going to have an impact on the neighborhood. It can be from positive or negative. He explained why he felt this was not a negative impact.

Mr. Roach had reached out to the Town Assessor's department in regards to this. He briefly explained what the Assessor's office had stated.

Mr. Daniel Bassett was present.

Mr. Bassett showed markings on the plans, on his screen, in regards to the line of sight from the right of GG and the fence line. He stated you will be able to see the panels from the 2nd floor and explained further. His concern is that you will be able to see the panels, even with the revised fence line.

Mr. Gioiosa explained the random sight lines had been done. He felt that the applicant had demonstrated that the sight has been screened, that there is effective screening that meets the intent of the bylaw. Spoke in regards to sight lines.

Mr. Bassett stated that he thought there may be a question if they meet and comply with the intent of screening. This may warrant another sight line from the end of G to the low section of the fence to determine if there are any adjustments that are needed.

Mr. Gioiosa stated that they are looking at the cross sections with the assumption that there is no natural

screening being left in place. That is not the case. Explained the sight lines that will be seen through the 75' of vegetation being left.

Mr. Bertozzi stated that he and Mr. Roach had been out to the site again, with a ladder and view about where GG is. Explained what he saw. We were not looking in the direction that Mr. Bassett suggested. He does not want anyone to be able to see the arrays. He wants a condition on the Special Permit, if approved, that if this is built and people can see it then the applicant has to fix it. His position is he doesn't want it to be screened 100% in the summer and only 90% in the winter. If this is going to be next to people's houses that it needed to be screened 100%. If more cross sections are needed, they need to be done.

Ms. Stacy Haskell of 101 Pond Street was present.

Ms. Haskell questions that the abutters had not received the most recent set of plans. She wanted to know why they didn't get them.

Mr. Roach explained why that happened.

Ms. Haskell stated that she didn't feel that the sight lines were realistic. The sight lines needed to be from the houses not from 5' off their lawns. The sight lines needed to be from their windows. This is against the bylaw.

Mr. Gioiosa stated that a number of concerns have been brought forward regarding sight lines. We can do additional sight lines. Their goal is to meet the requirements of the Town of Rehoboth's bylaw as it pertains to solar projects and if they meet those standards they are entitled to an approval, if we don't then we anticipate not receiving an approval.

Ms. Haskell stated that there needs to be more sight lines so that people can not see this from their homes.

Mr. Cooper stated that Mr. Bassett brought up a good point, we are going to discuss it as a board.

Ms. Haskell stated that they had legitimate concerns, the board has to hear them.

Mr. Cooper stated of course we do.

Ms. Haskell stated that this is not something that can just be built then take care of after the fact. It needs to be taken care of in the beginning. She felt that the home value will be valued differently. This is not in the best welfare of the neighborhood, which is against the bylaw.

Mr. Bertozzi stated that he felt that Ms. Haskell was right. This is a project that is sensitive. We have to make sure they can't see it.

Mr. Gioiosa stated that he knew that there are a lot of neighbors with concerns with sight lines, they will do more of them. There has to be a limit on them at some point.

Mr. Bertozzi stated that if the sight lines are correct then you are entitled to an approval.

Ms. Haskell felt that the board didn't care what the neighbors' concerns were.

Ms. Vadnais disagreed with the comment.

Ms. Haskell stated that they were just frustrated.

Mr. Cooper stated that the board is trying to give everyone the time to give their input. To make sure that this goes ok for the neighborhood. He apologized if they felt that this was contentious.

Mr. Bertozzi stated that he felt the Mr. Bassett and Ms. Haskell come up with a list of sight lines they want. Then it would be fair to everyone.

Ms. Haskell stated that she would do that.

Mr. Cooper stated that Mr. Bassett stated in the zoom chat that he would also be willing to do that.

Mr. Bertozzi made a motion that sight lines be done by Mr. Bassett and Ms. Haskell.

Ms. Vadnais seconded the motion. Roll call vote; all replied aye. Motion passes.

Mr. Bertozzi stated that the Boy Scouts have filed for bankruptcy. Raised his concerns with this.

Mr. Gioiosa stated that with this type of project the solar company would be the responsible party for maintenance, decommissioning, and putting the landscape bond in place.

Mr. Mark Carden from the Boy Scouts was present.

Mr. Carden explained that the National Boy Scout organization had filed for bankruptcy and that this land was owned by the local Boy Scouts organization. The local organization is separate from the national organization. The local organization had not filed for bankruptcy and had no intension of doing so.

Mr. Bertozzi asked if the local organization had any liability to the national organization?

Mr. Carden stated that they had been asked to contribute to compensate, which is the purpose of the reorganization. Explained the purpose of the reorganization. Mr. Bertozzi asked if their organization had been sued in court,

Mr. Carden stated not recently.

Mr. Al St. Louis of 105 Pond Street was present.

Mr. St Louis wanted to remind the board that Pond Street goes up hill. If there is a problem at the bottom of the street then there will be a major problem at the top.

Mr. Cooper stated that hopefully they could address that.

Ms. Shannon Taylor of 90 Wilmarth Bridge Road was present.

Ms. Taylor stated that her mom had tried to explain what was noticed from her second-floor window by Mr. Bertozzi and Mr. Roach, in regards to section HH and the possibility that we may need to put in anew leach field. Her own tree coverage would be gone. Could you comment on that, based on the changes made tonight if those things would be addressed.

Mr. Roach stated that it looked like the potential site for the septic system that was pointed out to them was in the patch of trees in front of the house. He did ask Mr. Gioiosa on the phone if they were relying on the trees, that were in front of the house, as part of the screening. Mr. Gioiosa explained that they are not relying on those as part of the screening.

Mr. Gioiosa stated that that is correct. They had not taken any credit on any of the sight lines for the effectiveness of any natural vegetation, either on site or abutting properties.

Ms. Taylor stated that she just wanted to make sure that she was understanding that correctly.

Mr. Gioiosa stated that that was one of the areas where the fence was moved further up.

Mr. Paulo Baptista of 119 Pond Street was present.

Mr. Baptista spoke in regards to the protection of the land, shown on a map on his screen. He asked about the priority habitat 622 and if that was the turtle protection area? What does 622 mean.

Mr. Gioiosa explained what priority habitat was and what 622 was for. Explained the process that they needed to follow. This is the protection for the turtle habitat. Explained what was proposed to protect the turtles.

Mr. Roach asked if the turtles would have access to where the panels are?

Mr. Gioiosa stated yes. Explained why there is an advantage to solar vs residential development for the turtles.

Mr. Baptista stated that Mr. Gioiosa said he had altered the plans to make this better for the turtles. He wasn't sure if the 622 designation equaled wood turtles.

Ms. Vadnais asked if the turtles were endangered or not?

Mr. Roach stated that the turtles are a state listed species.

Mr. Baptista asked are they endangered?

Mr. Roach stated they are enlisted as a special concern.

Mr. Baptista shared his screen to show part of the Order of Conditions, issued by the Conservation Commission. He stated that he was told that the Boy Scouts were gifted the land with the stipulation that the land couldn't be developed. He hadn't found any proof of that. Asked if anyone else had proof of that? The Registry of Deeds has the document listed by the DEP, read item #19 in the Order of Conditions. Asked if this is something that happened after the planning part goes forward or before?

Mr. Roach explained the document and the reason why it needed to come before the Conservation Commission for approval. Prior to the start of any work, they need to get an Authorization to Proceed from the Conservation Commission. Explained how that is obtained. As far as what impact that has on the Planning Board aspect, the two boards approval or disapproval from one board does not affect the approval or disapproval from the other board. They have filed with the Conservation Commission and have received an Order of Conditions. They will not have an impact on the riverfront area. Explained how the Order of Conditions works.

Mr. Carden stated that there was no deed restriction for development.

Mr. Baptista stated that Mr. Gioiosa stated that there would be no lighting at night. Is that correct?

Mr. Gioiosa stated that is correct.

Mr. Baptista asked about snow removal. Is there limited use of salt on the property?

Mr. Gioiosa stated there would be no salt on this project.

Mr. Baptista stated he found the decommissioning bond amount to be low.

Mr. Cooper stated that this is one thing that our peer review engineers specifically review. Fuss & O'Neil, the peer review engineer, gave the amount and we will follow their lead on whether that is appropriate.

Mr. Moitozo stated that that is part of the public record if someone wishes to see it.

Mr. Cooper stated that in the past the bond amount has been changed, the board will review it. It is a good point to bring up. The board will be looking at it very closely before anything is approved or disapproved.

Mr. Baptista spoke about two articles that were published in the Rehoboth Reporter. The first article mentioned that the town receives \$138,000.00 a year from four other solar projects on town. What do we project from this project?

Mr. Cooper stated that this was something negotiated between the Board of Selectmen and the applicant. Explained the pilot program and how it works. This is outside the Planning Boards jurisdiction.

Mr. Baptista stated that the seconded article was from an abutter to the property and talks about how the trees are going to be taken down and the habitat.

Ms. Ferreira stated to Mr. Baptista that at the Registry of Deeds there is a letter from the Division of Fisheries and Wildlife to the Rehoboth Conservation Commission, book 26315, page 148.

Mr. Baptista stated he had read that letter. It mentioned that there is still an opportunity to protect other habitats.

Ms. Ferreira stated that the letter she was referencing to just pertained to the Order of Conditions.

Mr. Brent Tinkham of 6 Marshal Way was present.

Mr. Tinkham stated thank you for agreeing to more sight lines. Stated that all the other sight lines, excluding H & G were taken from 5' over the road. Is that correct?

Mr. Gioiosa stated yes. Explained how the sight lines were taken.

Mr. Tinkham stated that the bylaw says we will not see solar arrays. He asked if the existing sight lines could be increased from 5'.

Mr. Moitozo stated that the board had asked to have done is to coordinate with your neighbors and tell us where you would like the applicant to go. Direct them to what you want to see. That's our goal.

Mr. Cooper stated that the goal is to get a relatively consist list of some additional sight lines that you as neighbors would like to see, to make you feel more comfortable.

Ms. Haskell stated the members of the neighborhood she had on her list already. She would go around her neighborhood and add anyone to the list that wants to be on it.

Mr. Bertozzi stated that when they get the list of sight lines, they need to be very specific from where you want them.

Mr. Cooper stated to also add in what direction.

Mr. Baptista thanks the members of the board that had gone out to the field and put up the 12' board. It was very helpful in building his confidence to where the fence is going to go. Asked Mr. Gioiosa, you said that the initial 50' buffer is now going to be 75'?

Mr. Gioiosa stated that is correct.

Mr. Baptista asked does that mean trees are not going to be cut down?

Mr. Gioiosa stated that is correct.

Mr. Baptista stated that is good.

Mr. Cooper stated that the board had received an opinion from Town Counsel regarding a different solar project and that the screening only has to be from abutting properties, specifically. Anyone who submits a sight line we'll look at it and ask Mr. Gioiosa to look at it. Our goal is to have a solar array, if it goes up, that everyone is happy with.

Chris Seal 5 Marshal Way was present.

Mr. Seal asked Mr. Cooper, he wanted to know if the bylaw supported what he said?

Mr. Cooper stated that the reason he brought that up was the board had a separate solar array project and

someone that was not a direct abutter, they were up on a hill from the array, they felt they should be screened also. The board did everything they could to have that happen. We reached out to Town Counsel and got a legal opinion and that at the time their opinion was that the bylaw applies to direct abutters of the project. We're going to do everything we can to make everybody happy.

Mr. Seal stated he just had an opinion about it, that's what you're saying?

Mr. Cooper stated that if it becomes an issue, we can discuss it further.

Mr. Bertozzi stated that the bylaw states "not to be visible from abutting streets and properties".

Mr. Cooper stated to Mr. Gioiosa that the board would provide him with the list of sight lines that neighbors want to see. That will be coordinated by Ms. Haskell, Mr. Bassett and other residents.

Mr. Gioiosa stated that acceptable to the applicant.

New Business

4. Planner Update

Mr. Roach stated that coming from the Board of Selectmen meeting and Town Counsel regarding two properties leaving Chapter 61 status. One question from conservation was our timing requirement. We have 120 days after receiving the notification in the mail.

Mr. Bertozzi spoke in regards to the Board of Selectmen wanting and answer quickly.

The board discussed this further.

Mr. Bertozzi spoke in regards to all the input given by the abutters of the 90 Pond Street project, he was very impressed.

Mr. Ennis spoke in regards to changing the solar bylaw and the amount of visualization that should be listed.

Mr. Moitozo explained what visualization is and that it had not been provided yet.

Ms. Vadnais requested that Mr. Roach send her a copy of the documents that stated a member of the board can only one meeting in order to be able to vote on a Special Permit.

Mr. Roach stated he would send the information to the entire board.

Adjournment

Mr. Costa made a motion to adjourn at 9:00 pm

Ms. Vadnais seconded the motion. Roll call vote; all replied aye. Motion passes.

Respectfully Submitted



William Costa, Sr., Chairman



Jake Kramer, Vice-Chairman