

Zoning Board of Appeals  
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David Pereira - Chairman  
John Scanlon - Vice Chairman  
Richard Panofsky - Clerk  
Richard Barrett  
Antonio Oliveira  
Raymond Olivier, Assoc. Mbr.  
Stephen Silva, Assoc. Mbr.

**ZONING BOARD OF APPEALS MEETING**  
**Meeting Minutes – October 21, 2022**

Call to order at 6:00 PM by David Pereira, Chairman.

In attendance: Chairman David Pereira; Vice Chairman John Scanlon; Clerk Richard Panofsky; members Antonio Oliviera and Richard Barrett; associate members Raymond Olivier and Stephen Silva.

Guests: Jay Talerman, Town Counsel; Michael Rosen, 255 State Street, Boston, Counsel for Green Renaissance; William McDonough, Rehoboth Building Inspector; Abutters Lynne Petrone, 9 Abbey Lane; Yoash Enzer, 15 Abbey Lane; Catherine LeBranch, 1 Abbey Lane; Stacy Haskell, 101 Pond Street.

The meeting was held at the Francis Hall/Council on Aging Building, 27 Francis Farm Road, Rehoboth, MA.

The agenda was reordered to use time before the public hearing.

**GENERAL BUSINESS**

1. Signatory Authority. J. Scanlon moved the Chair having signature authority; R. Barrett seconded; the motion carried unanimously
2. New draft of the 40B Form. D. Pereira asked to delay action, because he had some research to do concerning it. J. Scanlon voted to defer action until next meeting; R. Panofsky seconded; the motion carried unanimously.

**MINUTES**

On a motion by J. Scanlon and seconded by R. Barrett, the minutes of May 19, 2022, were approved as distributed by email, on a unanimous roll call vote: D. Pereira, aye; J. Scanlon, aye; R. Panofsky, aye; R. Barrett, aye; A. Oliveira, aye.

**PUBLIC HEARINGS AND MEETINGS**

File # 826 – 126 Brook Street, Jose Soares – appeal of a finding of the Administrative Officer. The matter concerns a finding that a business was being operated from the property. J. Scanlon moved to open the public hearing; A. Oliviera seconded; the motion carried unanimously on a roll-call vote: D. Pereira, aye; J. Scanlon, aye; R. Panofsky, aye; R. Barrett, aye; A. Oliveira, aye.

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William McDonough, Building Inspector, informed the Board that a subsequent inspection of the property and a meeting with Mr. Soares has clarified that any conditions previously out of compliance have been rectified, and the property is free of zoning violations. Therefore, he has rescinded the finding of a violation. Attorney Talerman advised that this renders the action moot, and there remains nothing for the Board to do. Lynn Petrone, an abutter, was permitted to speak. She expressed disbelief that the conditions have been changed. A second abutter, Yoash Enzer, was permitted to speak. This abutter raised similar concerns. Chair D. Pereira explained that any abutters can issue a new complaint and request a new enforcement request from the Building Inspector, if they believe infractions of zoning laws are occurring. A third abutter, Catherine LeBranch, asked specific questions about features on the property, such as two storage containers. W. McDonough responded to explain that those features are not in violation of any zoning bylaw in the town. R. Barrett moved to close the public hearing; J. Scanlon seconded; the motion carried unanimously on a roll-call vote: D. Pereira, aye; J. Scanlon, aye; R. Panofsky, aye; R. Barrett, aye; A. Oliveira, aye.

File # 827 – 90 Pond Street, Rehoboth Renewables, appeal of a finding of the Administrative Officer. The matter concerns a finding that a necessary condition for starting the project, stated in paragraph 25 of the special permit involving approval of plans for the battery storage unit, had not been met, and thus ordered a cease-and-desist order for removal of trees and land clearing that had commenced.

A. Oliviera moved to open the public hearing; J. Scanlon seconded; the motion carried unanimously on a roll-call vote: D. Pereira, aye; J. Scanlon, aye; R. Panofsky, aye; R. Barrett, aye; A. Oliveira, aye.

M. Rosen, Counsel for Rehoboth Renewables, explained their view that tree removal on the property was permitted freely for any owner, including Rehoboth Renewables, there being no prohibition in Rehoboth's zoning bylaws. Paragraph 22 of the special permit also allows tree clearing as a step in preparing the project site, and the wording of paragraph 25 does not apply to commencing other aspects of the project than the battery storage itself. The owners are trying to comply with all conditions, but do not want undue delay; specifically, this delay will prohibit fall planting of the required visual-barrier trees. W. McDonough, Rehoboth Building Inspector, explained his interpretation that paragraph 25 of the Special Permit requires approval of the battery storage before starting other work on the project. Battery storage has not yet been approved. J. Talerman, Rehoboth Town Counsel, testified to the intention of the Planning Board in preparing the Special Permit, that paragraph 25 was intended to stand as a condition to be met before the construction can commence. J. Talerman also testified that the existence of a special permit governing the project limits freedoms that owners would otherwise have under zoning bylaws in the absence of a special permit. Further discussion brought out that approval of the battery storage might occur fairly soon, making the matter moot. However, issues with that process remain to be resolved, and M. Rosen stated their wish to continue with the appeal. Stacy Haskell, 101 Pond Street, an abutter, discussed the Rehoboth Fire Chief's requirement of a permanent water supply to enable approval of the battery storage facility.

J. Scanlon moved to close the public hearing; A. Oliviera seconded; the motion carried unanimously on a roll-call vote: D. Pereira, aye; J. Scanlon, aye; R. Panofsky, aye; R.

Barrett, aye; A. Oliveira, aye. The Board conferred in private. Then, J. Scanlon moved that, based on condition 25 in the Special Permit, the Board upholds the decision of the Building Inspector. The motion carried unanimously on a roll-call vote: D. Pereira, aye; J. Scanlon, aye; R. Panofsky, aye; R. Barrett, aye; A. Oliveira, aye.

#### NEXT MEETING

The next meeting of the Board is scheduled for Thursday, November 17, 2022, at 6:00 PM.

#### ADJOURNMENT

The Board voted to adjourn at 7:00 on a motion by J. Scanlon, seconded by A. Oliveira, and approved unanimously.

Respectfully submitted by Richard Panofsky, Clerk



David Pereira, Chairman



John Scanlon, Vice-Chairman