

WALPOLE PLANNING BOARD MINUTES OF JULY 20, 2023

A regular meeting of the Planning Board was held on Thursday, July 20, 2023 at 7:00 p.m. in the Main Meeting Room at Town Hall. The following members were present: John Conroy, Chair; John O'Leary, Vice Chair; Catherine Turco-Abate, Clerk; Philip Czachorowski, Paul Smith, and Carl Balduf, Town Engineer.

Mr. Conroy opened the meeting at 7:02 p.m.

Minutes: Ms. Abate moved to accept the minutes of June 15, 2023. Motion seconded by Mr. O'Leary and voted 4-0-1 (Conroy abstained).

Reorganization: Ms. Abate nominated Mr. Conroy as chair. Motion seconded by Mr. O'Leary and voted 5-0-0. Ms. Abate nominated Mr. O'Leary as vice chair. Motion seconded by Mr. Conroy and voted 5-0-0. Mr. Smith nominated Ms. Abate as Clerk. Motion seconded by Mr. Czachorowski and voted 5-0-0.

397 Elm Street Discussion: Tom DiPlacido, Wrentham and Rick Goudreau of United Consultants were present to discuss a plan for building houses at 397 Elm Street, which is the old Roger Turner property.

Mr. Balduf stated he has no issues with what was given to him. Mr. Goudreau stated he will work with Mr. Balduf and the fire chief.

Garden Path Estates bond: Mr. Conroy moved to set the bond at \$358,000 as per recommendation from Carl Balduf. Motion seconded by Mr. Czachorowski and voted 5-0-0.

7:30 p.m. Kearsage, North Street, Case No. 34-04 Site Plan Approval: Mr. Conroy read the public hearing notice. Kearsage was represented by Andrew Bernstein, Managing Director, Dan Voss, Project Development, Atty. Bethany Bartlett, Kathleen Heyer, Pierce Atwood, and Rob Bukowski, Weston & Sampson. Mr. Balduf, Town Engineer, recused himself and stated that Chris Johnson, Assistant Town Engineer did the engineering review.

Mr. Conroy stated this is not allowed in a rural zone. He suggested that the applicant look into the prison site on Main Street for this project and stated that the Bay State facility in Norfolk already has solar panels. Andrew Bernstein stated they are trying their best to work with the community.

Atty. Kathleen Hyer, Pierce Atwood, stated she is here tonight because the judge said this project didn't comply with the Dover Amendment. Ms. Abate asked if

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this is still in court and Ms. Pierce stated yes, but were told they could move forward at their own risk. There is no court date scheduled yet. They are in Appeals Court not Land Court.

Mr. Bernstein explained the project and stated there will be minimal tree clearing, about 5.1 acres. They downsized this project as much as they could and they will need to put up a decommissioning security. Mr. Conroy asked how they will pay taxes and Mr. Bernstein stated it will be a personal property tax. Mr. Bernstein stated the bond will come from Kearsage to us, but we will need something that says we will have access at the end. Rob Bukowski stated tree clearing is limited to what is being shown on the plan; electric will be both underground and overhead; and, they are staying away from the river front areas. The biggest impact will be during the first three or four weeks and limited thereafter. Ms. Abate asked if there will be a gap in the fencing to let wildlife pass through and Mr. Bukowski stated there will be an opening of 3-4". Mr. Czachorowski asked if they will be cutting the hay and Mr. Bukowski stated they mow now about twice a year. Mr. Bernstein stated they will mostly use sheep, but not goats as they will eat the wires. Mr. Conroy asked if this is still a farm as he feels sheep would be part of a farm. Mr. Conroy asked what the temperature of the panels would be as he had read they can rise up to 185 degrees. Mr. Bernstein stated he never heard that. He knows they can be at 125 degrees and you can touch them. Mr. Conroy asked if there has been a study done on this and Mr. Bernstein stated he doesn't know. Mr. Conroy stated this is a farm area. Mr. Bukowski stated this area is not mapped as a priority for endangered species.

Mr. Conroy read comments from the Conservation Commission, Fire Department, Board of Health and the Assistant Town Engineer. He also stated there was input from the Walpole Preservation Alliance.

The presentation mentioned the use of a battery and Paul Smith stated he is concerned about that. Mr. Bernstein explained it and stated the energy from the panels will feed the battery. Mr. Smith asked the life expectancy of a battery and Mr. Bernstein stated about ten years. Mr. Smith asked if he has ever seen a battery live less than ten years and Mr. Bernstein stated no and if it were to happen, it can be replaced as it is a fully contained battery.

Ms. Abate stated that not a lot of traffic is expected and Mr. Bukowski agreed there will be very little after construction, which will take about four months. Ms. Abate

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asked if there is lighting involved and Mr. Bukowski stated no. Mr. Bernstein stated there will be no loud noises generated, but it will sound like a refrigerator during the day and will be completely off at night. It can also be turned off remotely. Ms. Abate asked how much energy will be produced and who will benefit from it. Mr. Bernstein stated it will produce 8-8.5 million KW hours, which will go back on the grid to be split between the town getting 10% and Kearsage getting 90%. Ms. Abate asked if they will sell the 90% and Mr. Bernstein stated yes through the Smart program. He stated an average home uses 10,000 kwh per year. Mr. Czachorowski questioned the size of the panels. Mr. Bernstein stated the panels will be about 8' high and 2' on the side. Mr. Czachorowski asked how much higher they will be than the ridgeline and Mr. Bernstein stated he will check. Mr. Czachorowski questioned the materials used and Mr. Bernstein stated steel which will be driven into the ground. Mr. Czachorowski questioned the building plan and asked if there will be fencing around the perimeter. Mr. Bernstein stated yes and there will be an emergency number that can be called 24/7 also. Mr. Czachorowski asked if there is going to be oil on site, which would be considered a hazardous material. Mr. Bernstein they will be using a vegetable oil. Mr. Czachorowski would like a note put on the plan with regard to the lighting. Mr. Bernstein stated there will be no lighting on site at all. Mr. Czachorowski stated that the fire department would like the roadway paved and Mr. Bernstein agreed. He stated it will most likely be smaller in size when this is finally built. Mr. O'Leary asked the estimated life of this project and Mr. Bernstein stated they will have a twenty year lease. Mr. O'Leary questioned the battery life and Mr. Bernstein stated 10-15 years. Mr. O'Leary questioned a waterway and Mr. Bernstein stated there will be a public water line through the property. Mr. O'Leary questioned the slope of North Street when you are on site and where is the entry point. Mr. Conroy stated he would like a construction plan, wheel washers and temporary gates shown. Mr. Conroy asked the pitch on the panels and Mr. Bernstein stated 20-25 feet and about 2' off the ground. He stated the panels will warm up, but they do lose some in the winter, so there will be melting around it. Mr. Conroy stated the fire chief may want more lighting. Mr. Conroy asked what if these panels don't work or burn out before their time. Mr. Bernstein stated it would be less than ¼% because it is glass and steel. Mr. Conroy asked what is the wind resistance and Mr. Bukowski stated they have to follow the

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building code. Mr. Bernstein stated it is 125 mph and there have never been any issues. Mr. Conroy asked that be added to the plan.

Mr. Conroy asked for public comments.

Sue Shockett, 1340 North Street and President of the Preservation Federation stated she would like the board to review the full formal comments they submitted. She stated they are also suing each other.

Rudy Barajas, 1400 North Street stated he is a construction professional and stated the plans that were on file on May 19th do not depict the area of this project. He feels someone from the town should verify the amount of acres, the documents should be reviewed, and both Kearsage and Norfolk County should be held to the highest level of the law. There is a lot of wild life in this area. He also questioned the sight line and asked if it has shifted closer to the road. Mr. Bernstein stated he did the sight line and the answer is no. Mr. Conroy asked that this be included in their next presentation. Mr. Barajas stated there is a down slope beyond the tree line and asked if anyone measured the height of the trees. He feels that Walpole will be missing that iconic tree line, the fields and the fences as that landscape will change if this goes through. The biggest loss will be not seeing the trees here. He read the New England Forestry statement. Mr. Bukowski stated that whole line to the northwest will remain as is. Mr. Conroy asked if these plans are the ones that will go to bid and Mr. Bernstein stated yes. Mr. Conroy asked if that site is defined enough on the plans and also does it show exactly what is there now so there will be no question as to what will be coming down and what won't. Mr. Bernstein stated yes.

Charles Hayes, 1354 North Street stated he is completely against this project. The area is too beautiful to be covered with solar panels. There are better places for solar farms. There are power lines that go from Bubbling Brook to Route 1 which would be a perfect spot for solar, as no one will be building a house under the power lines. He also agrees with the prison suggestion made by the chair. All this is being done for 5 MW and to destroy this area for only 5 MW is not right. When this was first proposed, they were going to cover the entire area. He feels when this gets started they will be back for more. Mr. Conroy stated that Edison doesn't like stuff under their wires. He asked if this was offered to the town first.

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Bill Buckley, Cobb Terrace stated yes and the State and town said no. Mr. Conroy asked if it was for \$198,000 per year for 20 years and Mr. Buckley stated yes. Ms. Shockett stated it would have been a 20-year lease, not offered for sale, just a lease. The town wanted to meet with the County and the County would only meet behind closed doors.

Mr. Delleo, 1 Homeward Lane asked what is the current grade and how much fill will be needed. Mr. Bukowski it will be more of a cut to flatten. Mr. Delleo asked if the fire department will require a road parallel to the existing road. He agrees with Mr. Hayes that this is just the beginning. He is 100% against this. Mr. Bernstein stated the curriculum is the same regardless of the amount of KW. Mr. Delleo questioned the noise of this cooling down in the summer. Mr. Bernstein stated it will be the same amount of noise as an air conditioner in a house. Mr. Delleo asked if this has to go before the Conservation Commission and Mr. Conroy stated no because they are outside the wetlands and Rivers Act, but they will have to file for a land disturbance permit and Storm Water Management. Mr. Delleo asked about gravel removal and Mr. Conroy stated that will be addressed within the site plan itself.

Rudy Barajas, 1400 North Street stated equipment is very noisy and there will be more noise than what they are saying. He asked if there will be blasting back there and Mr. Bukowski stated there is none proposed. Mr. Conroy asked if they have done borings. Mr. Bernstein stated no blasting will be required and they have not done borings, but the rack manufacturer will do it on his own.

Mr. Conroy continued this hearing to September 21, 2023 at 7:10 p.m.

195 Lincoln Road Scenic Road Hearing: Mr. Merrikin asked that this be continued without testimony to August 17, 2023. He also granted an extension of time up to and including August 31, 2023. Mr. Czachorowski moved to accept an extension of time up to and including August 31, 2023. Motion seconded by Ms. Abate and voted 5-0-0. Mr. Conroy continued this hearing to August 17, 2023 at 7:05 p.m.

9:20 p.m. Bristol Site Plan Continued Hearing, Case No. 23-01; Bristol Special Permits Continued Hearing, Case No. 23-02: The applicant was represented by Atty. Jeffrey Tocchio and Crocker Engineering. Mr. Conroy

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pointed out that Paul Smith is a new member to Planning Board and stated he can vote on these applications, but only if he is not the deciding vote on either of them.

Atty. Tocchio gave a quick overview and explained that they did previously freeze the zoning by continuing the Industrial Subdivision filing. He further stated it will be withdrawn when the site plan and special permits are approved. Mr. Conroy asked if they have installed a water line yet and Atty. Tocchio stated not yet.

Kayla, Crocker Design Group, stated that nothing has actually changed since they were last before us in January. They have been working to address the Conservation Commission comments and received their approval last week. They swapped out some basins that were underground to eliminate the need for slopes. All changes were underground that they had to do with drainage. She stated they have been working with Carl Balduf.

Mr. Conroy read the comments received and stated that the Board of Health has requested they add Basin #3 to the plan, which Kayla agreed to. Mr. Balduf reviewed his comments, which were basically administrative items as per his memo dated July 5, 2023. Mr. Conroy read comments from the Police Department, Conservation Commission and Board of Health. He stated they will need to add what the Board of Health has requested added to the final plan.

John O'Leary questioned the pump and Kayla, Crocker Engineering, explained it. Mr. Balduf stated that this system will be owned by the Homeowners' Association rather than individual homeowners.

Regarding the wet basin, Mr. Conroy asked if it will always be wet and how do you keep it wet in the summer. Kayla, Crocker Engineering, stated she is not sure. Mr. Conroy asked if the fountain only works when there is water available and Kayla stated yes.

There were no public comments.

Atty. Tocchio granted the board an extension of time on which to take action up to and including September 30, 2023 on the site plan, #23-01 and special permits, #23-02. Mr. Conroy moved to accept the extensions of time up to and including September 30, 2023. Motion seconded by Mr. O'Leary and voted 5-0-0. Mr. Conroy continued these hearings to September 21, 2023 at 7:06 p.m. for the site plan and 7:07 p.m. for the special permits.

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10:00 p.m. Warwick Road Subdivision Continued Hearing: The applicant, Lou Petrozzi was present and also Rob Truax, GLM Engineering, Holliston, MA. Mr. Truax gave a quick overview of this subdivision.

Mr. Truax stated they are asking for waivers from the municipal impact analysis, traffic report, volume of run-off of the site and drainage system, but have submitted a waiver-less plan already.

Mr. Conroy read letters received from the Conservation Commission and Mr. Balduf read his Engineering comments. He stated we are still waiting for comments from the Board of Health. Mr. Conroy asked Mr. Balduf to explain his comment numbered 5b in his letter dated July 20, 2023. Mr. Balduf stated there the street acceptance numbers do not agree. Mr. Truax stated it says to the terminus of the road and stated they need a legal opinion. Mr. Conroy stated this is under the control of town meeting. He asked how they are doing with the street opening request process and Mr. Petrozzi stated they have submitted their information to the Select Board but have not received anything back. Mr. Conroy stated at this point you can give us an extension of time or pull the application. Mr. Petrozzi stated they wouldn't be here if they didn't think they had a subdivision. Mr. Conroy stated you have a road that connects to nothing, so how can we give you an approval on a plan you can't build. Mr. Petrozzi asked that this be sent to town counsel for an opinion. Mr. Conroy stated no, you need to go to your attorney and get your own opinion. We will then forward your opinion to our town counsel. Mr. Petrozzi stated this is a two-lot subdivision and the board can vote on this.

Ms. Abate stated that on March 2, 2023 we told you that we needed something from the Select Board and there was also an issue with an abutter, Mr. Kelly. Mr. Truax stated they have already met with Mr. Kelly.

Mr. Czachorowski stated he feels there are two issues: 1) get the Select Board to vote on the street opening; and, 2) find out what was accepted by town meeting for the street. Mr. Petrozzi asked if the board would accept his attorney's opinion. If not what will you do with that opinion. Mr. Conroy stated no we will not accept it, but will forward to our town counsel for review. Ms. Abate agreed that is how we do it. Mr. Petrozzi stated he doesn't know where the application is at this point. Mr. Balduf had said he gave it to the town administrator.

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Mr. Truax gave the board an extension of time on which to take action up to and including September 30, 2023.

Mr. O'Leary questioned the run-off and Mr. Truax stated the brook discharges into the wetlands.

Mr. Conroy moved to accept an extension of time up to and including September 30, 2023 as submitted by the applicant's engineer, Rob Truax. Motion seconded by Mr. O'Leary and voted 5-0-0. Mr. Conroy continued this to August 17, 2023 at 7:30 p.m.

Heidi Street Subdivision: Mr. Conroy moved to accept the Form F covenant as presented and as reviewed by the Town Engineer. Motion seconded by Ms. Abate and voted 5-0-0.

Mr. Conroy moved to accept and endorse the Private Way Covenant as presented and as reviewed by the Town Engineer. Motion seconded by Mr. Smith and voted 5-0-0.

The board was reminded they had signed the mylars on May 18, 2023 and was holding them until the documents were accepted.

Master Plan Update: Mr. Czachorowski stated the committee is reviewing this now and he will check with Judi Barrett on her availability for presenting to the board.

MBTA ByLaw: Mr. Czachorowski requested that Pat Deschenes, Community Development Director be on an upcoming agenda to discuss the new MBTA law in order to bring the town into compliance.

Mr. Conroy moved to adjourn. Motion seconded by Mr. Czachorowski and voted 5-0-0. The meeting adjourned at 10:55 p.m.

Respectfully submitted,

Catherine Turco-Abate, Clerk

Accepted 8/17/23