

**WAREHAM PLANNING BOARD
MINUTES
January 9, 2023 – 6:00p.m.**

5-0-1

- I. **ROLL CALL:** The meeting was presented in the Multi-Service Center and via zoom as a hybrid meeting.

Present: Chairperson, Michael King, Mr. Corbitt, Mr. Schulz, Mr. Baptiste, Ms. Gleason (via Zoom) and Associate member, Sherry Quirk

Absent: None.

Planning Director, Ken Buckland was present via zoom.

II. PRELIMINARY BUSINESS:

1. **Approval of Meeting Minutes: 11/14/22, 11/28/22, 12/9/22**
Endorse Minutes from: 2/25/19, 5/20/19, 9/9/19, 11/18/19, 3/14/22 & 3/28/22

Mr. Corbitt made a motion to accept the minutes to form and was seconded by Mr. Schulz.

Mr. Schulz stated he was saying yes to form, but not to content or accuracy.

Ms. Gleason also stated she was saying yes to form; but was not present at four of the meetings in 2019, nor was she clerk for minutes that are presented.

Mr. King also stated yes to form, but not to content or accuracy.

The motion passed unanimously as stated. (6-0-0)

2. **Review of Draft Zoning By-Law Amendments (Carl Schulz)**

Mr. Schulz reviewed the draft zoning bylaw amendments that he has been working on for Article 14 and 15 to hopefully have it presented to Spring Town Meeting. He gave an overview of the two articles and in theory, hopefully, they could be combined into one but would discuss with Mr. Buckland before he got the draft to Mr. King. The board members agreed if any members had questions and or suggestions, they should direct them to Mr. Schulz.

Ms. Gleason has also been reviewing Article 17 to provide a new type of an overlay district. She said that currently Article 17 is for the Wareham Village.

3. **7-20 Borrego Solar Systems, Inc. 27 Charge Pond Road – New Leaf (Borrego) Extension of time SPR/Special Permit**
4. **9-20 Borrego Solar Systems, Inc. – 150 Tihonet Road – New Leaf (Borrego) Extension of time SPR/Special Permit**

Mr. King stated these Borrego Solar Systems Inc. hearings were mistakenly put on the agenda, they are scheduled for the January 23, 2023 meeting.

5. Windward Pines – Bay Pointe – Partial Release of \$634,126 from Tripartite Agreement for Phase 2: Review of Tripartite Agreement for Phase 1

Mr. Buckland stated that the representative couldn't attend due to illness and wanted the board to continue.

Mr. King said he had a few questions for the applicant. He stated that Mr. Rowley did manage to file a review before his retirement. Mr. King had reviewed what Mr. Rowley had written up along with his own review and offered a reduction to the release from \$634,126 to \$592,001. Mr. King reviewed the reasons to why the reduction would be offered and advised he would give his notes to Mr. Buckland to write up. Mr. King advised it was a total deduction of \$42,125.

Mr. Schulz made a motion to release the Tripartite funds of \$592,001; noting less \$42,125 that was due to information provided that either was not complete or information that wasn't given to the board. The motion was seconded by Mr. Corbitt and passed unanimously. (6-0-0)

In speaking regarding Phase 1 and the surety, Mr. Schulz stated he did research and that the surety that existed no longer does and the Tripartite agreement has expired. He said having no surety doesn't guarantee the completion of Phase 1.

Mr. Buckland said they should consider a surety to apply to Phase 1 to make sure the work is completed.

6. #39-21 Warren QOBZ, LLC – 59 Main Street – Map 47, Lot(s) 1124, 1125, 1126 – Request to modifications to the proposed building

Bill Madden, of GAF Engineering was present to explain minor modifications to 59 Main Street. He said they were present in June with a few minor modifications.

Mr. Madden reviewed proposed changes which included a proposed 12x38 addition to use for kitchen uses with two egress features. He stated these minor modifications would involve 59 Main Street only.

Mr. Schulz asked about the area where the new proposed addition is going and where the dumpsters would be going on the property. He asked if there would be a peer review from the Town's engineer. Mr. Buckland stated they could get a peer review if the board wanted that.

Discussion ensued about where the transformer was. Mr. King thought it landed in the buffer zone.

Mr. Baptiste said that he feels they need to be more consistent with the plans as they are always coming before them with changes.

Ms. Gleason asked about the total lot coverage and what the new addition would be adding to that lot coverage.

Mr. Madden stated the current total lot coverage allowed is 30% and that currently, they have 17% exclusive of the new addition proposed.

Owner, Danny Warren called in via remote and explained how the deliveries would take place at the restaurant. He explained how they envisioned the deliveries, and they would only be made in the early hours.

Mr. Schulz asked if they could change where the deliveries would be done versus what was conditioned and approved. Mr. Buckland said it could not, they had to do what was approved and conditioned.

With all the revelations and concerns that come up at this meeting, Mr. Warren stated that the team would reconvene to discuss and asked for a continuance.

Mr. Corbitt made a motion to postpone acting to determine whether 59 Main Street had minor/major modifications at this time and continue the hearing to January 23, 2023. The motion was seconded by Ms. Quirk and passed unanimously. (6-0-0)

III. PUBLIC HEARINGS – NO NEW HEARINGS

IV. CONTINUED PUBLIC HEARINGS:

1. 33-21 – Wareham PV1, LLC – Site Plan Review – 0 Route 25 – Map 115, Lot 1000 – proposing Ground-mounted Solar Energy Generation Facility

Attorney John Klavens of Klavens Law Group was present for the applicant along with representative, Matt Fortin Longwood Energy. Also present was Sarah Ebaugh, the civil engineer from VHB Engineers and Attorney Robert Galvin representing the landowner, Mr. Fletcher.

Attorney Klavens stated they submitted further site plans for the final touches that Mr. Rowley had requested. He said the easement lines are more clearly shown and the cross section is to show under the access road with detail on specifications on a reconstructive access road.

Attorney Klavens stated they are aware the significant issue seems to be the concerns about decommissioning, and they have been trying to reconfigure paths that may work. He said that the NREL report was new to them, and they did do some research on the report with their expert.

Attorney Klavens said the decommissioning cost estimate was prepared by a qualified engineer, StanTech; who has done cost estimates in over twenty-five states cross country and hundreds of estimates.

He said the cost estimate of \$645,000 grossed up by 125% for financial assurance and \$806,000. He said they are hoping that would be a good initial figure.

Joanne Blank, StanTech Engineering was present via Zoom. She reviewed the NREL report in her opinion. She said they had definite concerns about the numbers as they weren't specific to any one project. She said they had a hard time with the numbers presented in the NREL report.

Mr. King said that the numbers may be high and unrealistic, however, he said that no one knows what is going to happen in twenty-five years. He said when they make a decision it is to protect the Town as well and if they err on the side of caution if something needs to be taken care of that it is.

Ms. Blank said she agreed, and she said that is one of the reasons why they have the safety measures in place and updated every five years.

Mr. Klavens stated they have proposed safeguards in place with peer reviews in the future as well as a dispute resolution process in their conditions. He said the decommissioning plan bumps up to 3% for inflation every three years.

Attorney Klavens stated that resident, Mr. Cosgrove submitted additional materials and he and his team have reviewed and read through them, where he believes they have addressed the concerns and have addressed them. He shared a few examples.

Mr. Klavens said with Mr. Rowley's help he believed the groundwater issues have been put to bed.

Attorney Robert Galvin for Mr. Fletcher was present and spoke about the earth-removable activity that happened at the property in the past and stated that there is no ongoing earth-removable activity that is on-going.

Mr. King asked a few questions about the decommissioning reference: if the solar plans are recycled, where would it be going? Ms. Blank said they would be going out of Town if recycled.

Mr. King shared his concerns of decommissioning and groundwater. Mr. King said he was more comfortable with the decommissioning plan. He asked about groundwater monitoring. He asked about monitoring the wells between the property and anticipated flow of groundwater. He said he would be comforted knowing someone was going to be watching it. He said the Town thought there'd be three monitoring wells and it was a concern of the residents that Mr. Cosgrove spoke about.

Mr. Fortin said that the extreme of 'toxic' is extremely low.

Mr. King said the opinion of 'toxic' from Mr. Fortin's point of view to his are very different.

Mr. Corbitt shared concerns that there are three walking Town wells within walking distance of this site and what happens if things change in twenty years.

Mr. Schulz suggested just conditioning the groundwater monitoring.

Mr. Fortin, from Longwood Energy agreed maybe the groundwater monitoring is something they have to consider and asked perhaps the board could condition it. He said it certainly is high risk for them to not be aware of the well water.

Mr. Schulz reviewed his concerns about the financial disaster and if Longwood walks away that the landowner would be responsible.

Ms. Quirk told the applicant she was happy that they were coming to a point for the board to act favorably on the project. She said she thinks a larger decommissioning amount is necessary for the board as it provides a piece of mind. She said she also wanted to discuss the mechanism they propose to make changes to the decommissioning fund. She asked when they expect construction to begin.

Mr. Fortin said probably not a couple of years.

Ms. Quirk said understood there was a hearing that began a few days ago. She asked if they thought the construction would be after they got approved for the connection. She stated concerns as if there was a process in place and a decommissioning bond to secure it, would the process be quick. She said she feels the board is continuously looking at solar projects and if the process goes through quickly, she has concerns. She said she also had concerns on the process of experts being hired from both sides, possibly not agreeing and then a third expert being hired. She didn't feel that the board could or should be bound to an expert external from the board. She said she sees a process in that they each have an expert and the board decides based on the expert what the answer may be.

Mr. Klaven said he was responding to the Chair's concern about what happens with a difference in opinion.

Ms. Quirk said she wasn't sure they haven't addressed the issue of fire safety of the battery storage. She referenced the Fearing Hill Project with certain conditions and stated it would be fair to only include and address them here as well. She said they also asked Town Counsel about site plan review or if Special Permit is required here, and he confirmed the interpretation that both are required.

Ms. Gleason stated she didn't have much more to add after hearing Ms. Quirk's concerns.

Mr. King opened it up for public comment and asked that speakers only to add new information only.

Mr. Cosgrove was present to speak to the board on behalf of Citizens of residents living in that area. He read from a document that the applicant provided to the zoning board that was ultimately denied. He asked if they have a viable financial project in Plymouth as they have stated in documents, as he believed they have not. He stated that 50% or more of the land in

this area has been filled with 'who knows what' and that is their concern. He said they have requested soil inspections as well.

Ms. McHale was present and asked about a hydrological study that she thought the applicants were going to have due to its location.

Mr. King said that was a discussion and it has not been determined if it was going to happen.

Katherine Harrelson of Save the Pines Barrens was present and spoke about the project specific to the battery storage system.

Resident, Ms. Annie Hayes was present and spoke in opposition. She was concerned about what may be in the solar panels as well as the decommissioning plan.

Via Zoom, Mr. George Ecken reviewed his concern regarding the financial exposure to the Town.

A resident, who didn't identify themselves shared her concerns about the battery storage. She asked if the current by-law allows this type of battery storage.

Attorney Klavens replied that the SMART Massachusetts program requires intermittent storage on site to capture access energy, in reference to the battery storage.

Via Zoom, Ms. Mary Hanafin shared her opposition regarding the solar panels and decommissioning plan of what they are made of.

Resident, Jeanne Lemmon also spoke in opposition via zoom. She said she is more concerned and confused. She shared concerns about health and safety, the financial risk to the Town and more.

Mr. Cosgrove came back up and asked a question to the applicant regarding the battery storage.

Mr. King stated he doesn't think the hearing was going to close tonight. He said with all the input and a few more questions and concerns from the neighbors, he felt it should be continued. He also stated he had a few more questions on the project, including the monitoring wells.

Mr. Schulz stated he wouldn't be present for the February 13, 2023, meeting but will get up to date for that meeting. He said he would recommend not to vote that night so they can work through articulating their decision.

Mr. Buckland asked the applicant to put the request in writing for a continuance.

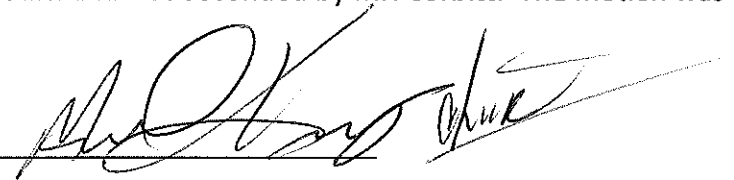
Mr. Schulz made a motion to continue the public hearing for 33-21 Wareham PVI to February 13, 2023 and was seconded by Mr. Corbitt. Motion passed unanimously.

V. **UPCOMING PLANNING BOARD SCHEDULE:**

1. Zoning Bylaw Public Hearing Schedule – Proposed February 13, 2023
 - a. Article 6
 - b. Article 15
 - c. Article 14
 - d. Article 17
 - e. Other
2. REFERRALS
3. MEMBER COMMENTS
4. ADJOURNMENT

Mr. Schulz made a motion to adjourn and was seconded by Mr. Corbitt. The motion was passed unanimously.

Approved by Planning Board Clerk: _____



Date submitted to Town Clerk: _____

WAREHAM TOWN CLERK
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