

**WAREHAM PLANNING BOARD
MINUTES - Draft
March 13, 2023 – 6:00 p.m.**

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

Mr. King opened the meeting at 6:01 p.m. and advised that the meeting is being recorded by WCTV.

Present: Chairperson, Michael King, Mr. Schulz, Mr. Corbitt, Mr. Baptiste, Ms. Gleason, and Associate member, Sherry Quirk were present.

Absent: None

Planning Director, Kenneth Buckland was also in attendance.

Assistant Town Planner, Jonathan Dickinson was also in attendance.

- II. **PRELIMINARY BUSINESS:**

1. **Approval of Meeting Minutes: 2/13/2023:**

Mr. Schulz stated he was not present at the meeting and the minutes reflected he was present and not present. He stated however, he did watch the video.

MOTION: Mr. Schulz made a motion to approve the minutes with the one correction that he was not present. The motion was seconded by Ms. Quirk and passed with Mr. Corbitt in opposition. (5-1-0).

2. **Discussion of Guidelines for Preparing Planning Board Minutes:**

Ms. Quirk said that she spent some time with the Town Attorney, Bowen regarding the importance of minutes and documents that perhaps the board could come to a consensus to the information they need to have on hand. Ms. Quirk stated they came up with the following guidelines (see attached).

Ms. Quirk stated that the minutes are not necessarily part of the record for what is stated at the meeting, other than for the Motions and Votes that take place at the meeting.

In reviewing the document, "Guidelines for Preparing Planning Board Minutes", she stated the minutes of each meeting will include the date, time, location and Board members, Staff and Town Consultants present at the meeting. She said that at the beginning of the meeting, the Chair would state that the meeting is being videotaped as part of the record. She said that any speaker that refers to a document will state the document title and sufficient detail for the purposes of identifying it as part of the record and will also provide a copy of it. She reviewed that the names of speakers and the subject areas of any remarks or questions would be entered into the minutes. Any proposed conditions of approval discussed by the Board, any motions made, seconded and voted upon with a record of the identity of the movant, the Board Member seconding it and the final vote. And the minutes would also include any motion that is made and subsequently withdrawn. A brief statement of the reasoning behind any Board decision, to the extent the Board is discussing a decision.

Ms. Quirk stated that Attorney Bowen advised the basis of a decision needs to be captured as well and/or discussions of decisions need to be written out as well.

She also stated that it was important to have a physical place for a copy of the approved minutes, any documents associated and reviewed at the meetings as well as a copy of the video cd of the minutes.

Discussion ensued regarding where this 'package' of minutes would be available at the Town Hall for public record keeping. Mr. Buckland recommended digital copies of the documents to be kept on hand and stored with the approved minutes and video cd of the minutes, that once signed by the Board's clerk is then forwarded to the Town Clerk.

Some discussion was had on using an "AI" in the future.

MOTION: Mr. Corbitt made a Motion to adopt the Guidelines of the Planning Board Minutes, dated March 9, 2023, and to capture the documents, video, and minutes as discussed to send over to the Town Clerk once the minutes are approved by the Board. The Motion was seconded by Ms. Quirk and passed unanimously. (6-0-0)

3. Discussion and possible vote – Waiver of Application Fee – Form C Resubmittal for Peyton Estates off Squirrel Island Road

Present before the Board: Engineer, Brad Bertolo from JC Engineering, stated they were in the process of refiling Form C, Resubmittal for Peyton Estates off Squirrel Island Road and he was present this evening to ask for a waiver of the application fee, except for re-notifying the public. He stated the denial was more done because of the Eversource acquisition versus the engineered plans.

Mr. Schulz stated he would be okay with it but asked what precedent it would set going forward.

Mr. Buckland stated they were looking for a waiver of the application fee only.

Mr. Baptiste said they may be setting a precedent for future applicants to ask for the fee to be waived.

Mr. King said he agrees with Mr. Baptiste and had the document they requested been submitted it would have avoided this whole process.

MOTION: Mr. Schulz made the motion to approve the waiver of the application fee, which was seconded by Ms. Gleason. Via roll call vote: Ms. Quirk – No. Mr. Baptiste – No. Ms. Gleason – Yes., Mr. Corbitt – No. Mr. Schulz - Yes, Mr. King – No. The Motion fails. (2-4-0)

4. 1-23 SWEBCO – ANR – 13 Swift's Beach Road – Map 56, Lot 1000 – A & 1001-A

Documents presented: ANR – Form A, dated February 22, 2023, and a set of plans dated January 23, 2023.

Present in front of the Board: Steven Webby Sr. and Steven Webby Jr. were present.

Mr. Webby Jr. explained they own Parcel B currently and are looking to purchase Parcel A, combine the two lots for a conforming lot, and then split A/B to make two different lots.

The Board confirmed Parcel A and Parcel B, would become Parcel D; they are not stating that it is or isn't a conforming lot.

MOTION: Mr. Corbitt made a Motion to endorse the ANR for 13 Swift's Beach Road, Map 56, Lot 1000 – A & 1001-A. The motion was seconded by Ms. Gleason and passed unanimously. (6-0-0).

5. 2-23 Robert L Perry – ANR – 10 Squirrel Island Road – Map 74, Lot 1010-A1

Present in front of the Board: Engineer, Brad Bertolo of JC Engineering.

Documents reviewed: Form A application, ANR dated March 9, 2023, and Plan Set by JC Engineering, dated March 9, 2023, stamped by Mr. Churchill's stamp.

Mr. Bertolo reviewed the currently vacant lot, looking to create a parcel and split off some excess lot area far northern portion of the property. The remaining land area meets lot shape and the lot meets the criteria for lot area. He stated the proposed lot, labeled Parcel A, is labeled as it is a non-buildable lot under the current configuration and will be conveyed in the future.

Ms. Quirk asked if this lot was for sale, she did remember that it was for sale. Mr. Bertolo said he was not privy to that information.

Mr. Buckland stated that the lot isn't a lot yet, so it can't be for sale.

Mr. Schulz asked if this would automatically be added to the subdivision. Mr. Buckland said it would not, it is just being sub-divided.

Mr. Robert Perry approached and said he does have the lot for sale, subject to this approval. He stated he has a pole sitting on it that belongs to the lot. Mr. Perry stated his pole would be part of the Eversource acquisition.

Mr. Baptiste suggested that they perhaps should condition it so that if the lot becomes deemed as a buildable lot in the future that the electrical pole problem is resolved ahead of time. Mr. Perry said he didn't think they could condition that.

Mr. Bertolo said they are just creating an unbuildable lot under the same configuration. He said they are not creating any other lots.

MOTION: Mr. Schulz made a motion to endorse the ANR at 10 Squirrel Island Road, Map 74, Lot 1010-A1, and was seconded by Mr. Corbitt. The motion passed unanimously. (6-0-0). The Board members endorsed the plans.

6. 7-20 Borrego Solar Systems, Inc. – 27 Charge Pond Road – New Leaf (Borrego) Extension of time SPR/Special Permit

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

Present before the Board: Jared Connell and Dean Smith of New Leaf Energy (formerly Borrego) Attorney Greg Sampson via the phone.

Documents Presented:

Mr. King stated for the record he had a letter dated, March 8, 2023, from Womble Bond Dickinson regarding Decommissioning Estimates, Special Permits, and Site Plan Approvals.

Mr. King stated he had in hand, a hardcopy letter from Citizens Opposed to the projects at 27 Charge Pond Road and 150 Tihonet, c/o Gary C. Cosgrove, dated March 13, 2023.

Mr. Schulz stated there was something submitted from Resident, Annie Hayes. Mr. King said they should refrain from mentioning items that were uploaded to the website. If someone comes forth to discuss, then they will mention it for the record at that time.

Mr. Connell reviewed the project and where they stand today. He said they have done their best to finalize the decommissioning plan to the Board's satisfaction and although they haven't reached the rate the NREL report identified, they would get to that rate if the Board asked them to as long as they could ask for a review every five years of that amount.

Ms. Quirk asked if she understood correctly that they were willing to agree with the NREL numbers, with the request that at regular intervals the Board revisits those numbers (that may go up or down, depending on their future knowledge).

Mr. Connell agreed with that statement. He said they are asking for the Board to consider a five-year increment review of the numbers they suggest for the decommissioning plan. He said that he believes it would be appropriate to revisit at the time they go to the Building Commissioner for a permit and thus five years after that point.

Mr. King asked why they would think the Board would change their mind regarding the decommissioning cost from tonight to the time they got their building permit.

Mr. Connell not suggesting views would change – just an opportunity for final plans that have to be presented to the Building Commissioner, to get an actual cost bond (from someone who is going to do the work) that matches an actual cost vs an estimate based on a non-specific site over 2 years ago – not even one of these projects.

Reading from the document from the Womble Bond Dickinson Group, Mr. King pointed out a phrase in paragraph three that read, "allow the Projects to proceed forward, with the understanding that future adjustments may be required based on the Town's peer review." Mr. King said he got the impression that although you want us to move the project forward you would come back and ask for us to reduce it. He reiterated that the Town's view on the decommissioning plan is solely to protect the Town. Referencing Chapter 595.3 of the Town's By-law, "the bond will be in the amount and the form to be reasonable for the Town." Mr. King said he was in favor of using the NREL report as reasonable to him but may not be to them.

Mr. Connell said that he felt the “as could be changed in the future” referenced the five-year period they have been discussing.

Mr. Connell said they wanted the opportunity to produce final plans that would go to the Building Department for a permit and to use those final plans as the clock starts for the five-year period of review.

Mr. Buckland said that the Board could condition the project that the bond is the Planning Board’s to release, review and adjust; that way it would stay with the Board and not another department.

Discussion on when the applicant thought he would be ready for a building permit.

Mr. Connell stated they would try to complete the construction at the same time of Eversource’s upgrades.

Mr. Schulz said that was a risk to the Town if it never happens with Eversource.

Ms. Quirk also stated there could be opposition to Eversource’s project that would delay it. She said that she is always thinking of the Town conservatively.

Ms. Quirk stated they did speak to Town Counsel about this and that in his words he stated that he was not convinced that the interconnection study process constituted good cause for the delay. She said it would be helpful to him to bring more information on that point. She said his concerns were alleviated by the decommissioning plan that the Board deemed to be adequate for the project.

Ms. Quirk also said that Mr. Bowen recommended a bond issued by an issuer on the Mass lists of sureties.

Mr. Smith confirmed that would be adequate to them.

There was a discussion on the bond requirements and conditions surrounding the bonds. Mr. Buckland stated that the Selectboard gets the final review and approval on all bonds for the Town.

The Board discussed a few possible conditions: One, that the bond should inform to the Town if there is a non-payment and second, a condition that final approval for the bond has to go through the Selectboard.

Ms. Gleason said the board is not looking for a revised estimate but a revised decommissioning plan showing the numbers. She said they are two different documents.

Mr. King also said the same. He said the board is looking for a revised decommissioning plan with a block number. He referenced a previous project that too, didn’t agree with the NREL report, however, gave them the number they were looking for in their plan.

Ms. Quirk said the Selectboard was going to appoint an “Alternative Energy Committee” the following night and asked the applicant if they would provide information and support during the committee’s review on this information. She said if they were asked to volunteer, they hope they would do so.

Mr. Connell said they have participated in those discussions in other towns and have no problem assisting in that way.

Mr. King asked the applicant to come back on March 27, 2023 to meet with figures for the Board and the information on the recycling of panels. He asked that they submit that paperwork to the Planning office well before the meeting. Mr. Schulz asked that they include a statement in the decommissioning plan that if in the future they would use a reliable Massachusetts company to help dispose or recycle the panels at that time.

Ms. Quirk said she would like to submit a document on NREL and its mission.

Mr. Carroll said the NREL report is a good source of information on many topics. He believes this report was largely about what to do at end of life to best prepare for the end of life on a system and not solely about the decommissioning side of things.

2. PUBLIC HEARINGS:

1. Continued Discussion and possible vote – Zoning Article for Town Meeting

i. New Article 4A-WV-1R – Downtown Reinvestment

Mr. Buckland reviewed the last discussion and stated there have been a few changes to the way the article was written up. He said the new guidelines and performance standards were shifted to the Special Permit rules and regulations; to take on a little more flexibility.

He reviewed the goals of the performance standard guidelines, a Mixed-Use Development.

Dan Butler, Chairman of the Regional Development Authority was present. He said they went back to the drawing board and rewrote the article a bit after the last meeting's discussions, and they are recommending the Planning Board endorse the new article 4A-WV-1R as well for the Downtown Reinvestment.

Mr. Buckland reviewed the 2020 Zoning Amendments for housing whereas a simple majority is all that is needed for an amendment. He reviewed the analysis that speaks to the criteria. He said he believes the Town Moderator can call for a simple majority on this article.

Resident, Ms. McHale stated she couldn't find the documents on the Town's website.

Mr. King said that the documents do not have to be on the website prior to the Town Meeting, but they will be.

Mr. Buckland said the documents are available to the public at the Planning Office but are not on the website as of yet.

Discussion of the documents to be added to the website. Mr. Buckland gave a brief presentation of slides.

Via Zoom, Jim M of Cranberry Highway said he was in favor to improve the downtown area to bring in business. He said that the people on High Street would be affected by tall buildings. He asked if the guidelines and regulations have been thought of as of yet. He asked a few questions on the use table. He thought a few things were restrictive. He had a few concerns about Industrial uses. On the Industrial, he would like to see it a bit more clarified.

Peter Teitelbaum of Precinct 3 spoke. He said the height of buildings seems to be an issue here and he hopes that Town Meeting Members don't fight that. He reviewed the fundamental reason for going up and what the intent of that type of construction is needed in that area.

Trisha Wurts speaking as a citizen stated that she would like the Planning Board to define what 'air rights' are in the documents. Mr. Teitelbaum stated it was the state zoning statute.

Ms. Gleason stated when the article goes up on the site, they should also put up the design guidelines that will be a part of the rules and regulations.

Ms. Annie Hayes had a few questions for Mr. Buckland. She asked questions about green space on the conceptual sketches that were presented.

Mr. Buckland stated it was going to be organic and depending where people wanted to invest their money.

MOTION: Ms. Gleason made a motion to close the public hearing on **New Article 4A-WV-1R – Downtown Reinvestment** --- and was seconded by Mr. Schulz. The motion passed unanimously. (Ms. Quirk noted that the documents needed to be posted)

MOTION: Mr. Corbitt made a motion to recommend to Town Meeting, Article 4A-WV-1R, Downtown Reinvestment, as well as to recommend the Simple Majority Vote with this article at Town Meeting and was seconded by Mr. Schulz. The motion passed unanimously. (6-0-0)

ii. Article 6 – Dimension

Mr. Buckland reviewed Article 6-Dimensions. He said that Town Attorney Bowen stated they should write out what the changes are. He said it doesn't require a text color change.

Ms. Gleason pointed out a change that needed to be made, replacing "NR" to a dash. She explained why they removed all the NR and NA's and took them out of the definitions as well.

MOTION: Mr. Corbitt made a motion to close the Public Hearing on Article 6-Dimensions, and was seconded by Ms. Gleason. The motion passed unanimously. (6-0-0)

MOTION: Mr. Corbitt made a motion to recommend Article 6-Dimension with the change that was noted by Ms. Gleason this evening and was seconded by Ms. Gleason. The Motion passed unanimously. (6-0-0).

Mr. Teitelbaum stated they could do a Place holder article for the Town Meeting. He said the Board of Selectman would add the lingo, "to see if the town would amend, as shown on the filing of the office of the Town Clerk, as it would then be acting, breathing document".

3. CONTINUED PUBLIC HEARINGS:

- 1. 12-22 Wareham MA 3, LLC. – 91 & 101 Fearing Hill Road – Site Plan Review – Map 91 & 71, Lot(s) 1000 & 1007 – proposing Ground-mounted Solar Energy Generation Facility (Requesting Continuance to 5/22/23)**

Mr. Corbitt made a motion to continue 12-22 Wareham Ma 3, LLC – 91 & 101 Fearing Hill Road to May 22, 2023, per the applicant's request and was seconded by Mr. Schulz. The motion passed unanimously.

4. UPCOMING PLANNING BOARD SCHEDULE

Mr. King reviewed the Planning Board Scheduled Meetings forthcoming.

5. UPCOMING WORKSHOP:

- 1. Discussion to Schedule Workshop Date**

Discussion on when a workshop should take place to discuss Article 15. Mr. Schulz stated that the Subdivision rules and regulations are pending, and other rules and regulations for Land Use and other need to be discussed. Mr. Schulz stated they would regroup and discuss a workshop in the future.

6. MEMBER COMMENTS

7. AJOURNMENT

MOTION: Mr. Corbitt made a motion to adjourn which was seconded by Ms. Gleason. The Motion passed unanimously. (6-0-0).

Approved by Planning Board Clerk: _____



WAREHAM TOWN CLERK
2023 MAR 28 PM 12:12

Date submitted to Town Clerk: _____