

WAREHAM PLANNING BOARD

Multi-Service Center

54 Marion Road, Wareham, MA 02571

Monday, June 13, 2022

The following record pertains a meeting held by the Wareham Planning Board at 6:00PM local time. A video recording of this meeting is available for viewing. The record for the proceedings includes the videotape of the meeting, the resolutions passed, and any document presented during the course of the meeting.

I. CALL TO ORDER

Chair King opened the meeting and proceeded to call the roll.

PRESENT MEMBERS

Michael King
Carl Schulz
Jane Gleason
Sherry Quirk, Associate Member
Sam Corbitt
Mike Baptiste

ALSO PRESENT: Monique Baldwin, Assistant Town Planner
Charles Rowley, Consulting Engineer
Kenneth Buckland, Director of Planning and Community
Development

ABSENT: _____

II. PRELIMINARY BUSINESS

1. 13-22 ANR – Robert Krystofolski Jr. – 738 County Road

No representative was present. K. Buckland expressed concern if the lot was completely located within Wareham, as his interpretation of the plan included frontage in Rochester, specifically, the entrance to the circular driveway. C. Rowley disagreed. C. Schulz noted that the applicant was not present to answer questions and the Planning Board was unclear on the legal standing. M. King agreed that the opposing opinions posed an issue.

MOTION – Move to deny 13-22 ANR – Robert Krystofolski Jr. – 738 County Road based on no applicant present to answer questions on an unclear legal access.

| MEMBER | MOTION | SECOND | VOTE |
|-----------------|--------|--------|------|
| M. King (Chair) | | | AYE |
| J. Gleason | | X | AYE |
| C. Schulz | X | | AYE |

| | |
|-------------|---------|
| S. Corbitt | ABSTAIN |
| S. Quirk | - |
| M. Baptiste | NAY |

S. Quirk was not eligible to vote.

Seconded and passed without dissent. 3-1-1.

2. 14-22 ANR – Sarajon Realty, LLC – 152 Blackmore Pond Road

Brad Bertola, JC Engineering

The project concerned the creation of a parcel from an existing, conforming buildable lot in the remaining land area. B. Bertola noted the project meets all requirements in the R-60 zoning district and meets frontage and lot shape factor requirements. The applicant felt the project met all standards for approval not required. A handout was presented, which included the application.¹ J. Gleason found the combination of lot 1005 and the parcel would amount to only 150 frontage, not meeting the 180 requirement. B. Bertola responded that lot 1005 is a non-conforming, preexisting developed lot. C. Rowley clarified that the plan was adding to a pre-existing lot to make it more conforming. K. Buckland and J. Gleason briefly discussed circumstances under which a Special Permit would be required.

3. MOTION – Move to approve 14-22 ANR – Sarajon Realty, LLC – 152 Blackmore Pond Road.²

| MEMBER | MOTION | SECOND | VOTE |
|-----------------|--------|--------|------|
| M. King (Chair) | | | AYE |
| J. Gleason | | | AYE |
| C. Schulz | | | AYE |
| S. Corbitt | X | | AYE |
| S. Quirk | | | AYE |
| M. Baptiste | | X | AYE |

Seconded and passed without dissent. 6-0-0

4. Schedule Workshop on Regulations to Amend

A brief discussion by the Planning Board ensued on scheduling when to review and discuss amendments. The discussions were scheduled for July 18, 2022.

¹ See: ANR Plan.

² See: Decision (2022, June 13).

III. CONTINUED PUBLIC HEARINGS

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

Sarah Ebaugh, Site Civil Engineer, VHB
Betsy Mason, Legal Representative
Haley Orvedal, Longroad Energy Partners
Chris Wagner, Environmental Scientist, VHB
Meddie Perry, Senior Hydrogeologist and Director of Water Resources, VHB

The Planning Board was provided with the initial application and an updated graphic.³ A new conceptual Site Plan that would be reflected in full Site Plans. The Site Plan was revised to remove all proposed project components from any buffer zones. The applicant provided a response letter to the Planning Board including an explanation of the easement and the 1966 document from the Commonwealth of Massachusetts Highway Department.⁴ A revised Decommissioning Plan was also provided. B. Mason expressed that she would be withdrawing their notice of intent to the Conservation Commission, as their approval is no longer needed.⁵

S. Ebaugh updated the Planning Board on the vegetative buffer discussed in previous meetings. C. Schulz stated that he did not believe the Planning Board had the right to waive requirements for the buffer. K. Buckland stated that the regulations require buffers to be 50 feet. S. Ebaugh noted that additional trees could not be planted on certain slopes without extensive earthwork.

B. Mason stated that the bylaws require 50-foot buffers where the lot abuts or is across the street from a residential development or street, thus, the buffer requirement was not applicable. M. Baptiste stated concern that allowing the 25-foot buffer would set a negative precedent. M. King agreed and noted that the western was owned by the town. J. Gleason noted that the town's lot could be potentially used for residential development, and that any use for the lot in the future could be impacted by the lowered buffer on the applicant's lot.

Regarding the development of the town's adjacent plot, B. Mason responded that she had already met with the Town Administrator, K. Buckland, and the Director of Public Works on the possibility of a composting facility on the western town lot. There are no proposed plans for development on the town land presently. K. Buckland commented that the town lot is zoned for residential use, and the aforementioned Public Works discussion was regarding the easement, however, it was unsuccessful, and no proposal exists.

³ Available documents: [Applicant Letter to Planning Board](#) (2022, May 16). [Site Plan Review Application](#). Compiled. (2021, September 7).

⁴ See: [Response to Planning Board Comments](#). (2022, June 9). Re: Proposed Large-Scale Ground-Mounted Solar Photovoltaic Installation, 0 Route 25, Wareham, MA Response to Planning Board Comments at the May 23, 2022 Public Hearing.

⁵ See: [Response to Planning Board Comments](#), VHB, (2022, June 9). Re: Proposed Large-Scale Ground-Mounted Solar Photovoltaic Installation, 0 Route 25, Wareham, MA Response to Planning Board Comments at the May 23, 2022 Public Hearing.

Regarding the applicability of a 50-foot buffer, B. Mason responded that the bylaw explicitly refers to districts, not parcels.⁶ Additionally, language in the appendix of the bylaws does not refer to the boundaries of parcels.⁷ S. Quirk commented that the Planning Board is entitled some deference in the interpretation of its bylaws. M. King agreed, and stated he agreed to K. Buckland's interpretation. C. Schulz stated he would be willing to involve Town Council in determining the Planning Board had the authority to waive the buffer and the interpretation of the bylaws.

S. Ebaugh questioned if there was any other existing consideration on the issue. C. Schulz stated that the applicant could adjust the project size to accommodate the buffer. He noted that the buffer's purpose is to screen the site from view, and that a slope would not be adequate. S. Corbitt expressed concern that if the town does choose to use the abutting lot, the project would be visible. C. Schulz stated that if a lot cannot meet the Land Use Guidelines and Design Requirements, it is inappropriate for the lot, and the Planning Board does not have the authority to overlook the requirements.⁸

H. Orvedal questioned the clear shift in the positions of member of the Planning Board, as this has been previously discussed and received positively. She noted that M. King had assumed the issue with the 25-foot buffer resolved. B. Mason stated that the client has made a number of concessions in terms of removing panels to accommodate the Planning Board.

K. Buckland noted the Town Administration had sent a memo to the Planning Board concerning the Hydrology study, expressing concern over the mounding of groundwater, which would affect the ability to install heat pumps in the adjacent property.⁹ S. Ebaugh stated the proposed grading is minimal, essentially flattening out sand piles on the north side of the road.

M. P, senior VHB hydrogeologist, presented findings from his desktop study of the hydrology of the site and the surrounding area, for which he relied on existing data and studies to evaluate the project's impacts. He had not visited the site. Per, M. Perry, the site is comprised of homogenous granular material and sandy loam. As groundwater in this environment originates from precipitation, it is able to flow through the porous sand to the east and southeast of the site. Were the project to be built, the groundwater flow regime would not change. Previous study of the site found no groundwater at 20 feet depth. In M. Perry's professional opinion, impacts to the groundwater table would include no more than a two-inch rise, with the impact limited to the area between the Longroad Solar Project and cranberry, and the stream located in the east.

C. Rowley agreed with M. Perry's assessment of groundwater flow and noted he did not believe stormwater was a significant issue to the site in his November 3, 2021 report, his primary concern

⁶ See: Bylaw 594.1.4. (2018) (2021) (2022)

⁷ See: Bylaw Appendix 1, on Boundaries of Districts.

⁸ See: Bylaw, Design Standards and Guidelines.

⁹ See: Stormwater Management Report, VHB. (2021, August). Proposed Large-Scale Ground Mounted Solar Photovoltaic Installation.

was the buffer.¹⁰ C. Rowley further referenced a 1970 hydrogeologic study on the area which supported the assessments presented by M. Perry.¹¹

ML and C. Rowley discussed the installation of steel posts and their impact on soil conditions. The representatives confirmed the posts would not introduce contaminants into the aquifer. C. Schulz requested M. Perry submit a stamped and signed report regarding his conclusions. M. King agreed, and M. Perry confirmed a report would be submitted with his certifications.¹² C. Rowley requested the elevation of the surrounding cranberry bogs, as they were not depicted in the Site Plan. S. Ebaugh acknowledged this.

S. Quirk noted prior public comments regarding the investigations into the site. She requested legal counsel be consulted to ensure the Planning Board was able to move forward. M. King agreed.

A brief discussion ensued regarding the applicant's proposed utility plan. B. Mason stated that an agreement would need to be reached with the easement holder who would be impacted by construction. B. Mason requested a reasonable agreement ensuring no major interference during construction be reached prior to construction. S. Corbitt questioned how many people have the right to use the easement, which was unknown. J. Gleason requested further information on the physical characteristics of the transmission line. She also requested the applicant notifies the Planning Board when contact with easement holders has been made. B. Mason noted 22,000 volts would be generated by the electric line going through the easement. C. Schulz requested the Planning Board be provided a letter from the Conservation Commission that they have no jurisdiction.¹³

M. King opened the discussion to public comment.

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Barry Cosgrove, Resident

BC stated that there has been no reasonable opportunity to review all the new information that has been provided. The applicant is trying to fit as many solar panels as it can and negotiate the buffer zone. He expressed that an independent, third-party, Land Court-certified Title Examiner should render an opinion on the easement. As the easement was issued decades ago, solar power and the flow of 22,000 volts through the ground was not considered. He further disagreed with the applicants' arguments regarding the difference between parcel and districts. M. King acknowledged B. Cosgroves's concerns.

Annie Hayes, 52 Farmers Lane Resident

¹⁰ C. Rowley Report (2021, November 3). Not found.

¹¹ Presumed to be: Water Resources of the Coastal Drainage Basins of Southeastern Massachusetts, Plymouth to Weweantic River, Wareham, by J. R. Williams and G. D. Tasker. 1974.

¹² See: Meddie J. Perry, CGWP to Wareham PV I, LLC Solar Project File. (2022, June 30). Re: 0 Route 25 Wareham, MA Solar Project, Groundwater Hydrology Assessment.

¹³ See: David D. Pichette to Planning Board. (2022, June 27). Re: Wareham PV 1 – 0 Route 25 Solar project.

M. Perry was asked to clarify if certain data was used in his study. A. Hayes presented reasons why communities outlaw PFASes on solar panels and requested certification that the panels used for the project contain no PFASes. She also expressed nanoparticles can infiltrate the aquifer.¹⁴

David Howard Fletcher, Property Owner

D. Fletcher identified himself as the property owner, and asked the Planning Board if they had any questions for him. D. Fletcher stated some information presented had been incorrect. He stated there is not an investigation. D. Fletcher further noted that the solar panels and array will be beneath the mean average lay of the land, because he had dug the ground out to build cranberry bogs. He believed the elevation would be positive in terms of shielding the project. He also commented on the stability of the slopes, which he made steeper to minimize the slope encroachment on the bog bed. He felt confident in his work stabilizing and invited Planning Board members to assess them. He also noted he had addressed a minor erosion issue in 2018 with the Highway Superintendent, Dave Minard.

C. Schulz requested that several sight-line tests were done to demonstrate visibility impacts. S. Ebaugh and M. King agreed. D. Fletcher suggested installing a chain link fence. M. King acknowledged this option.

K. Buckland then questioned D. Fletcher on how many yards of material were removed from the property to create the bog. D. Fletcher stated between 80,000 to 100,000 yards, and that this was discussed in 2018. He noted that Mr. Bowen and Mr. Sullivan would be able to further clarify.

Jessica Bell, Butler's Cove Resident

J. Bell expressed concern regarding local water conditions. She questioned if the approval of the project would result in a vote by Wareham citizens, to which the answer was no. She expressed further concern that M. Perry had not physically been to the site, and requested an independent source be hired to evaluate impacts to the water.

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MOTION – Move to continue the public hearing on #33-21 Site Plan Review – Wareham PV I, LLC – 0 Route 25 – Map 115 Lot 1000 – Ground-mounted Solar Energy Generation Facility on July 11, 2022.

| MEMBER | MOTION | SECOND | VOTE |
|-----------------|--------|--------|------|
| M. King (Chair) | | | AYE |
| J. Gleason | | | AYE |
| C. Schulz | | X | AYE |
| S. Corbitt | X | | AYE |
| S. Quirk | | | AYE |
| M. Baptiste | | | AYE |

Seconded and passed without dissent. 6-0-0

¹⁴ For citizen comments, see: <https://www.wareham.ma.us/active-planning-board-applications/pages/33-21-wareham-pv-i-llc-spr-0-route-25>

2. #3-22 Site Plan Review – 5 Doty Street – Jason St. Martin – Map 103, Lot 1027 – Parking Lot

The applicant had submitted a requested for a continuance.¹⁵ C. Schulz expressed frustration with the applicant's absence. The Planning Board respectfully denied the June 27th request and planned to schedule July 11.

MOTION – Move to continue the public hearing on #3-22 Site Plan Review – 5 Doty Street – Jason St. Martin – Map 103, Lot 1027 – Parking Lot until July 11th.

| MEMBER | MOTION | SECOND | VOTE |
|-----------------|--------|--------|------|
| M. King (Chair) | | | AYE |
| J. Gleason | | | AYE |
| C. Schulz | X | | AYE |
| S. Corbitt | | X | AYE |
| S. Quirk | | | AYE |
| M. Baptiste | | | AYE |

Seconded and passed without dissent. 6-0-0

3. #7-22 Site Plan Review – 246 Marion Road – 246 Marion Road LLV – Map 55, Lot 1010 – Parking Lot

Brad Bertola, JC Engineering

B. Bertola presented the Planning Board with a revised plan, which included adjustments to landscaping, parking, and entrances. Adjustments were made to parking on the south of the building and most easterly strip. These adjustments allow for a 'Do Not Enter' sign at the Brown Street entrance. The aisle leading to the front of the building was lessened to 13 feet, with only one land. Parallel parking spaces were shifted away from the highway layout line to provide additional separation between a fence. B. Bertola noted he had been in contact with the neighboring property owners. It was decided to change the 20-foot buffer filled with white pine. Changes to the grading were made that would have no impact on parking. The privacy fence would be moved back four feet and arborvitaes would be planted.

M. King questioned if the Brown Street entrance was still a concern. C. Rowley responded that it was, as it does not meet the bylaw requirements; the curb cut being within 100 feet of the center line is a violation. B. Bertola noted the property had been that way for decades. C. Schulz agreed, but expressed concern that the Planning Board did not have the authority to grant a waiver. K. Buckland responded that a conditional approval could be made.

M. King questioned if the Fire Department had approved the reduction of the front lane to 13 feet. B. Bertola confirmed the property had emergency access, but they had not seen the revised plan. A discussion ensued where S. Corbitt questioned if it would be appropriate to vote to approve

¹⁵ See: Notice of Continuance. (2022, June 13).

with the condition that the Building Commissioner sign-off if the applicant needs to go before the Zoning Board regarding the curb-cut.

MOTION – Move to conditionally approve #7-22 Site Plan Review – 246 Marion Road – 246 Marion Road LLV – Map 55, Lot 1010 – Parking Lot, based on the revised proposed Site Plan, with the following understanding the 100 foot curb-cut requirement is an existing condition, and the condition would be that if the Building Inspector disagrees with the Planning Board’s interpretation of the historical condition it would go to the ZBA.

| MEMBER | MOTION | SECOND | VOTE |
|-----------------|--------|--------|------|
| M. King (Chair) | | | AYE |
| J. Gleason | | | AYE |
| C. Schulz | X | | AYE |
| S. Corbitt | | X | AYE |
| S. Quirk | | | AYE |
| M. Baptiste | | | AYE |

Seconded and passed without dissent. 6-0-0

4. #12-22 Site Plan Review – Wareham MA 3, LLC – 91 & 101 Fearing Hill Road – Map 91 & 71, Lot(s) 1000 & 1007 – Ground-mounted Solar Energy Generation Facility

Joe Shanahan, Project Developer, Con Edison

J. Shanahan summarized the response to the Planning Board’s request for a noise study. The study was conducted by the firm, HMMH, which K. Buckland approved of. The study was submitted on December 13, 2021. To be in compliance with state noise standards, it was recommended that sound barrier walls be incorporated along the south and west side of the northern pad as well as to the east and west sides of the southern pad. The barrier walls had been added to the plan.

The applicant had removed the credit for salvage value of the equipment in the cost estimate of removal. J. Shanahan additionally noted the addition of a cost estimate per the solar bylaws.¹⁶ The current bylaws call for surety at 125% of cost estimate, thus, the original submission of \$185,000 would be \$232,000. Regarding the removal of poles and site stabilization, J. Shanahan and C. Schulz agreed on adding document language along the lines of, “as proposed by the applicant reviewed and approved by the Planning Board.”

M. King opened the hearing to public comments.

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Eric Lintillo, 15 Squirrel Island Road Resident

E. Lintillo provided the Planning Board with a document detailing information on new investigations pertaining to cultural, historical, and archaeological evidence on Fearing Hill. The

¹⁶ See: Bylaws, Section 595.3.

information asserts credible, reasonable evidence exists before the Planning Board to warrant a historic archaeological survey under Article 12 Performance Standards.¹⁷ E. Lintillo references a document submitted November 22, 2021, which contained information and maps of contact-period native trails. He noted a 1795 map shows original Wampanoag trails through the area. E. Lintillo noted that no mention of evidence or possible evidence was included in the site application, under existing conditions. Furthermore, applicant maps label all walking trails except the major cultural cart path trail. Images of the cart path trail were provided, as well as images of ceremonial stone landscapes.

E. Lintillo stated that A. Hayes had provided him with an email on January 10, 2022, from David Moretti. D. Moretti resides on Helen Street where the cart path trail ends. D. Moretti wrote that as his house was constructed in June 1990, he had an unexpected visit from a lawyer from Plymouth Bank. The lawyer stated the bank would not fund his mortgage if the structure was on an ancient way that ran through the property. The town Selectmen agreed with the bank's assessment. E. Lintillo concluded that the evidence provided by himself and other organizations to the Planning Board warranted further investigation into the property.¹⁸ E. Lintillo noted that two people from the Wampanoag tribe had been the hill to examine the area and will submit their information to the Planning Board.

J. Shanahan responded that the information presented by E. Lintillo does not substantiate that the items described are protected, specifically, that contact trails are not a protected cultural resource. He cited his work with the MACRIS database, which shows no protected items are within the site.

S. Quirk requested the Planning Board discuss the issue with Town Counsel to determine if an obligation exists and what it may imply for the Planning Board. C. Schulz recognized that the bylaws state the Planning Board should consider historical items. He noted land use for Site Plans are exempted from Article 12.

Annie Hayes, 52 Farmers Lane Resident

A. Hayes provided information to the Planning Board regarding PFAS and noted that the surrounding area has many wells. M. King questioned if the solar panels built with PFAS emit it, to which A. Hayes said yes. M. King and C. Schulz requested submission of sources. A brief discussion ensued when C. Schulz noted that while several citizen statements asserted that Fearing Hill is in a groundwater overlying protection district, he does not see that on the zoning maps. K. Buckland confirms that it Fearing Hill is not in a protection district.¹⁹

Nancy McHale, Fearing Hill, Precinct 5

N. McHale introduced herself as one of the stewards of the Wareham Land Trust for Fearing Hill conservation. She provided the Planning Board with selected photos of the area. She expressed concern that the hydrology report did not include information about the eastern side of the hill, on which there are eight residential properties. Degradation of the environment would impact these homes. She also noted the noise study does not mention the eastern side of the hill, or the impact

¹⁷ See: Article 12 Performance Standards, 16.9.

¹⁸ See: Resident Comments, Archeology; Item Images 1-4; Item Images 5-7.

¹⁹ See: Resident Comments, Hayes I; Hayes II;

to animals residing there. She referenced a survey completed by the Botanical Club of Cape Cod, which the Conservation Commission has in their possession.

Kathy Papalardo, Fearing Hill Road Resident

K. Papalardo presented questions regarding accessing citizen comments.

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5. **MOTION** – Move to continue the public hearing on #12-22 Site Plan Review – Wareham MA 3, LLC – 91 & 101 Fearing Hill Road – Map 91 & 71, Lot(s) 1000 & 1007 – Ground-mounted Solar Energy Generation Facility until June 27, 2022.

| MEMBER | MOTION | SECOND | VOTE |
|-----------------|--------|--------|------|
| M. King (Chair) | | | AYE |
| J. Gleason | | | AYE |
| C. Schulz | X | | AYE |
| S. Corbitt | | X | AYE |
| S. Quirk | | | AYE |
| M. Baptiste | | | AYE |

Seconded and passed without dissent. 6-0-0

IV. OTHER BUSINESS

C. Schulz noted a request from the prior meeting to meet with management from Wareham Retail about site conditions. M. King summarized the concerns, which related to lawn mowing, flooding, and retention basin erosion. K. Buckland responded he had sent a letter to the management company. A prior motion requested representatives to appear before the Planning Board; a timeline of 30 days was given.

A representative from Master Millwork communicated to the Planning Board the request for an extension was due to delayed delivery of HVAC units. Without the delivery of the units, they would be unable to obtain a final affidavit from the engineers to submit to the Building Department for the CO. The company was made aware of the predicament, and the representative acknowledged the implications of not having an extension issued. C. Schulz expressed concern for the livelihoods of Master Millworks employees should the extension be denied.

MOTION – Move to request the Zoning Enforcement officer/building commissioner to extend temporary CO by 30 days, with the understanding that there would be no further extensions.

| MEMBER | MOTION | SECOND | VOTE |
|-----------------|--------|--------|------|
| M. King (Chair) | | | AYE |
| J. Gleason | | X | AYE |
| C. Schulz | X | | AYE |
| S. Corbitt | | | NAY |
| S. Quirk | | | AYE |

M. Baptiste AYE

Seconded and passed with dissent. 5-1-0

V. AJOURNMENT

MOTION – Move to adjourn.

| MEMBER | MOTION | SECOND | VOTE |
|-----------------|--------|--------|------|
| M. King (Chair) | | | AYE |
| J. Gleason | | X | AYE |
| C. Schulz | | | AYE |
| S. Corbitt | X | | AYE |
| S. Quirk | | | AYE |
| M. Baptiste | | | AYE |

Seconded and passed without dissent. 6-0-0

The meeting was adjourned at approximately 10:00PM local time.

Approved by Planning Board Clerk:



WAREHAM TOWN CLERK
2023 APR 11 AM 9:11

Date submitted to Town Clerk: