

**Rowley Planning Board
Minutes
For Regular Meeting February 7, 2018**

Members Present

Chris Thornton (Chairman), Cliff Pierce (Member), David Jaquith (Member), Troy Spaulding (Member), Mark Savory (Member), Kirk Baker (Town Planner) and Larry Graham (Consultant) were present.

Chris Thornton called the meeting to order at 7:34 p.m.

Discussion - Town Counsel Tom Mullen regarding safeguarding sale of marijuana.

The Town's Attorney, Tom Mullen was present. He stated he had reviewed the town's by-law regarding regulations for the sale of recreational marijuana. He discussed the document as it reads to be limiting sales in the retail district only. He discussed the marijuana statute and the regulations a town has to follow to address all aspects of the sale of recreational marijuana. Medical marijuana sale is currently permit by the bylaw in the Retail zoning district with a Special Permit from the Planning Board. In addition to the retail sales he discussed indoor cultivation, production and testing uses and asked if these will be forbidden or intended to be allowed. He notes the right to farm bill does not include marijuana.

Restrictions on types of retail to be allowed or any restriction on a particular type would have to go to town meeting and get a vote after, since Rowley has already accepted the ability to have marijuana sales shops. The Board discussed having the retail district only for sales and restriction of cultivation to the light industrial district. Atty. Mullen stated he is surprised that the statute states the town needs a host agreement with the community.

Another discussion was on marijuana cafes. Resident Mike Sabatini stated the Board is right to be concerned and gave his opinion on the café aspect. Mr. McCarthy, President and CEO of Ipswich Pharmaceuticals was present and stated they will be seeking a location in Rowley. He commented on retail bylaws, his cultivation location in western Massachusetts, security, and his greenhouses.

Motion to authorize town council to draft a by-law consistent with discussion made by Pierce and seconded by Jaquith. All voted in favor (5-0).

Additional discussion on timing of preparation and voting to allow for town meeting hearing.

Continued Public Hearing - Site Plan Review - Rowley Solar Facility 623 Wethersfield Street

Robert Blanchette, Civil Engineer for the applicant presented an updated site layout showings the setback distance of the panels from the lot line. The closest array is no closer to a lot line than 30 feet. The solar arrays to the fence is a width of 8 feet with the fence to the lot line a width of 22 feet. Design shows evergreen screening along the fence, adding trees in other areas as shown. Discussion on types of trees and if they have a landscaping designer. Jaquith discussed how to make it look as natural as possible with specific species and longevity. Owner Berkowitz stated there is a forester employed by the farm who works with landscape nurseries and will be involved in the selection. They will work with the Board on quality of trees and type for longevity and fast growth. Blanchette continued discussion on lot lines.

Graham's office received storm water management plan for review. Blanchette showed reinstated panels added to achieve the final 2 megawatts of power. Numerous discussions on the possibility of

moving panels currently nearer abutters to another area on the other side of the stone wall. Owner stated that area is part of the farm for foraging mushrooms and needs the room for animals and to stay in business as a working farm. Blanchette also discussed the gravel road for entry to the array area.

Thornton discussed the future expansion area; Blanchette stated there is a 100-foot buffer zone to the wetlands. There was discussion regarding the possibility if panels could go in the buffer zone. This could happen, but would need to get approval from the Conservation Commission but it would involve a sizable fee.

Pierce stated it is a detrimental impact to abutters by putting panels nearer them in lieu of paying a fee to Conservation Commission to utilize part of the buffer zone. Atty. Beatrice stated there is certainly a financial impact to the applicant but they more concerned about the potential impact to the wetlands. Thornton stated the reality is this project being so close to abutters will have a detrimental impact on their land values and he agrees the burden needs to shift to the applicant. He further notes that abutter Kassiotis will be affected on two sides of his property. Thornton is of the opinion that the Board has the discretion to change the buffer zone footage from the 15-foot minimum to more if it would help mitigate the impact to the abutting properties.

The resident who resides at 479 Wethersfield Street asked where they are in the process. Thornton stated that they are in the middle of the public hearing and gives a summary of what preceded this meeting. Thornton noted for those who hadn't attended the previous meetings that the initial placement of the arrays at the time of the first meeting was more agreeable to the Board than this revised plan. Abutters were notified with a letter, as well as through the normal procedure of a notice in the paper and on the town website. Residents can also call the Planner's office. This is the third open meeting.

Additional questions asked were about how the property was zoned. The Board answered that the property was zoned Outlying (OD) which allows single-family residential by-right, OSRD residential with a special permits, Churches and other cultural places, and solar arrays with site plan review. Beatrice notes that this project will provide cheap power to the town as well as generate revenue for Rowley Solar, LLC. Beatrice also stated the bylaw clause about the use of the property and detrimental impact was discussed.

Per Jaquith, he believes the use is creating a nuisance unless it is properly designed. Abutters also asked about noise and lights. Abutter Kassiotis spoke regarding his research into the Central Street solar facility from the year before, that he was 75 feet away from it and he could hear humming and the closer he got, the louder it got. He is very concerned about the horses on his property and the safety of riders as a result if the horses are perturbed since the panels will be facing his pasture. He states that noise is most definitely a detrimental impact to him.

Blanchette discussed the transformer and converter. Mr. Keith Acres was present to address facts regarding solar arrays. He will be the financer/owner/operator of the solar array. Regarding noise, older solar sites tend to make more noise. Technology has moved from that type of inverter; they are now smaller on every panel and generate significantly less noise. Within 50 ft., noise is about 40-60 dcb, 40 = the sound of raindrops and 60 = normal conversation. This type would be used on this site. The purpose of the concrete slab is to have 2 or 3 transformers on it and it will generate noise but not as much as the inverters. Discussion on similar systems on similar properties they have completed. MSDS sheets for panels, racking and major equipment were sent to the Board, stating all equipment tested and certified as safe. Discussion on procedures that are required.

Another abutter asked if there is a town regulation specific to noise and gave an example. The Board said there is not. Jaquith stated the Board can make noise loudness a condition if the future requires changing panels and the owner would have to come back to the Board for approval. Abutter at 479 Wethersfield St asked about other projects, and their closeness to lot lines. Community solar projects in town are maxed out to 2 megawatts.

Graham commented that his letter this date was a review of the latest revised plan which relocated the access drives and array field. His opinion on the northwesterly array field concurs with it as a reasonable location on the property. The northeasterly array field north of the Kassiotis property was revised some and placed a little further from property line. Graham was disappointed to see that his previous recommendation made to take advantage of the natural berm for the road and move the array further north was not implemented in the redesign. Regarding the array fields closest to Wethersfield Street, again he was disappointed the new design did not utilizing the existing drive to access all fields or the original access drive initially presented. For those reasons, Graham believed the revised plans would not appease abutters or please the Board.

Graham asked Acres about the array fields fencing and if that land also could be maintained as a no-cut line and Acres stated yes. Blanchette stated fence line is the boundary for the no-cut line. Graham stated that the plans do not show much grading. Acres discussed in detail the fixed tilt system of the array stating the panels do not move. The racking can go with the grade within 15-20%. They can work with the land with this system. Acres asked Graham how much more is he wanting move from the abutters. A Standard footage cannot work in all instances, which the town does not have. Some areas are 500 ft. from abutters, yet others only 30 ft. Graham also questioned if there is any reason why the existing drive cannot be used for access, as it would create more space for panels to maintain a 100 ft. distance from Wethersfield St. and would be a positive change for the Kassiotis property.

Additional questions and comments were received by abutters. Richard Burns, 620 Wethersfield Street, spoke regarding the large trees in front along Wethersfield Street not being cut down. Acres stated there is significant shading impact there and Burns believes they will be cutting the trees. He is concerned about the safety of his property when trees are removed as well as seeing panels from the street.

Tammy Graves, who resides at 624 Wethersfield Street, spoke regarding property owner wanting to keep the farm portion of her land and not put the arrays there. The abutters are concerned their property value could decrease 40%. She believes the applicant is missing the point that all of the abutters will be affected. She also questioned who is monitoring the project to make sure they do what they propose? The construction will be overseen by Graham. Thornton stated the building inspector is only one who has authority to inspect and that is why this Board tries to get all the details right when approving and ordering compliance. Acres does all possible to abide by the approval. Acres could provide previous before and after pictures of other projects to get an idea what it will look like when done. Owner Berkowitz sent an email to Baker, which he read, relating to these concerns. Ayers answered other questions asked by the Board and residents.

Thornton stated the meeting brought a large attendance of community members with strong objections especially from abutters. He asked Acres to be cognizant of the objections and get the arrays away from the lot lines. He suggested going back to the existing driveway to open up other space. Kassiotis also stated he was disappointed that recommendation was not taken into account. Abutter Sandra Kassiotis stated she is worried about all other neighborhoods as well if this project is approved.

Motion by Jaquith and seconded by Spaulding to continue hearing to March 14, 2018 meeting. All voted in favor (5-0).

New Public Hearing - OSRD Special Permit Review/50 Newbury Road/Michael Hart

Thornton read the legal notice and the Board voted to open the public hearing. Ben Osgood, the Engineer on behalf of the applicant, presented plans for the property as it stands showing where the current house sits and will remain. There is a habitat area on the property. Additional plans showed the 12 units being proposed, approximately 2,000 sq. ft each, the roadway, and the housing style, working with the topography of the land. Discussed duplex style homes vs. single family, the road length and width, clustering the homes, possibly shorten the road and increase driveway length. The Board tends to frown upon garage doors facing the street. Discussed the impact on town services.

Resident Joan Peterson, who lives on Newbury Road, asked about the septic system location, being one combined system for all 14 units, as shown on the plan. The property abuts other town owned property that they could connect with a trail. Graham commented on the summary of his report. Talked about the yield plan, soil testing, the open space dead-end street length and roadway design. Thornton stated they have considered road lengths in excess of 500 feet with approved waivers. Graham suggested the Board will be interested in seeing lighting and landscaping details. He discussed the yield plan in depth, non-compliances with the zoning by-law on lots 5, 6 and 10 for the odd shaped lots and 150 feet of frontage non-conforming on lot 6. Graham also discussed the soil tests taken.

The Board then discussed the existing home and getting the road installed. Resident Joan Peterson brought up the rise on Newbury Road that is a blind spot and is concerned about the safety near the opening of this road. 56 Newbury Road resident Brooke Tennant (?) asked what are plans on keeping the existing wooded nature of the space, as the buildings will be close to her home. Thornton stated the Board will keep abutter concerns in mind when approving plans presented. Gary of 115 Newbury Road asked questions on what the Board is looking for exactly regarding housing style. Owner representative stated he is getting the impression the Board would like duplexes. Thornton stated a mix of single and duplex would use less land in the development. OSRDs encourages higher density with some open space (70% will be open with the OSRD requirement being 50%).

Graham asked Brook Ten Eyck about their driveway, stating a portion of it is on the applicant's property and suggested it would be a good opportunity to clear up this issue. Applicant representative asked Board to go for a site visit before coming back for discussion. The Board scheduled February 26, 2018 at 8:30 a.m. for site visit.

Jaquith made a motion that was seconded by Spaulding to continue public hearing to March 14, 2018. All voted in favor (5-0).

Continued hearing - Site Plan for Hydrant Regency Dog Kennel

Motion by Jaquith and seconded by Pierce to continue hearing to March 14, 2018. All voted in favor (5-0).

Other Business

Cindy Lane - Request for payment from bond

The Board reviewed the letter from Atty. present with owner Said Abuzarah's request to reduce bond being held to complete the connection at Wilson Pond Road and Cindy Lane. The As-built request for this part of the project was made. Hayes Engineering did an inspection and certificated all was built per plan (just the intersection). They couldn't see all the area through snow to see the condition of the grass seed planted. Though owner Abuzarah had requested the bond total of \$232,840, his Atty. recommended minus \$500 to be held for grass seeding.

The Board is still waiting for a street acceptance plan and for the street to be accepted by the town. Discussed the request of the majority of the funds minus \$500. Jaquith wants to adjust the withholding to \$1,000. He will revise bond schedule to show what Board votes on.

Total of work left to be done is loam/seeding (\$1,000 value), Cindy Lane Ext. sidewalk (\$4,100 value), street trees (\$1,200 value,) complete Asbuilt plan (\$9,500 value), stone (\$7,100 value) totaling \$22,900. Contingency amount is about 10%. Pierce is concerned that this has gone on for so long, things could start falling apart, and the town should hold a sizeable chunk of money. Discussion continued on how to move forward. Mr. Abuzarah stated that a good portion of the as-built improvements are completed. If items show deficiencies, they need to be fixed. In the end, the road needs to be accepted by the town. This project commenced in 1989.

Pierce stated the town needs to be protected and the Board should hold back \$40,000 and release \$192,840. Motion by Pierce to grant a reduction of the bond release request of \$232,840 minus \$40,000, for the \$192,840 amount per the above. Motion seconded by Jaquith and all voted in favor (5-0). Atty. will update the owner's request for final documentation.

Storage Units – Representative present to explain the change they want to make which is to separate a large unit to two small units. Discussion about removing 20 ft. of pavement off the back, and if it would be a minor modification within same footprint. Representative reviewed the print with the Board. Discussed if adding more pavement in a different area would affect the water quality units. By removing pavement, the end result is less impervious area, building and pavement coverage than originally approved. After discussed on other aspects of the change, The Board does not feel it requires a major modification.

Motion to approve changes as a minor modification as discussed made by Pierce and seconded by Spaulding. All voted in favor (5-0).

Adjournment

Motion to adjourn meeting made by Pierce and seconded Spaulding. All voted in favor (5-0). Meeting was adjourned at 10:30 p.m.