

DATE: May 12, 2021  
LOCATION: Online  
TIME: 7:00pm

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**Members Present**

Chris Thornton (Chairman), David Jaquith (Vice Chairman), Kevin Moriarty (Member), John Urbaczewski (Member), Troy Spaulding (Member) and Kirk Baker (Town Planner) were present.

Thornton called the meeting to order at 7:00 p.m. Meeting conducted by remote participation to the greatest extent possible, due to Governor's orders on suspending open meetings and gatherings of more than 10 people.

**Appointment - Town Counsel Tom Mullen to discuss Rowley Solar Project at 623 Wethersfield Street**

Attorney Tom Mullen, the Town of Rowley legal counsel was present to answer Board questions concerning their options for to proceed concerning the Rowley Solar project. One aggressive option available to the Board is to revoke the special permit approval and have the facility dismantled. There is still much work on the site not yet completed, which was originally due at the end of 2020 and then again extended to June 14 as the end date for completion of the conditions of the special permit. He cautioned that that may be too aggressive under the current circumstances he noted the process should be initiated by making a formal declaration that they are currently not in compliance with the special permit/site plan approval and then sending notice to the developer via certified mail that if not corrected within 30 days the special permit will be rescinded. Mullen notes that rescinding a special permit is not forbidden in the law but that due process must be observed.

He then notes that the surety being held pertaining to the project can be used. An email notice would have to be sent to the surety company and the solar company giving notice of the taking of the bond. The Board could also fine the solar provider and then go to court seeking an injunction of special permit until all the remaining work is completed.

He notes that this would be at great cost to the solar provider, Powerfund 1, to have the bond called. The Board needs to be aware that the land owner is involved and may or may not be agreeable to the town taking over the project but that it's just a fact that the town has no leverage over the property owner to incentivize them to facilitate final completion of the Solar project.

Moriarty stated that it appears no progress has been made since the last meeting. Nothing has changed in the front of the property and the applicant is not available at this meeting. Thornton asked that if the Board activated the bond, what would the town have to do to use money to finish the project. The town has no easement on the property to allow them to complete the work. If given the approval to complete by Powerfund 1, the town could run into the same issues with the land owner that the current provider is having. He notes that, in the future, the Board should be seeking working easements on these type of projects in case applicants do not complete the job). After much discussion by the Board and Mullen, he urged the Board not to demand bonds because of the legal issue on how to enforce. The Board members agree that June 14 is the end date for completion, and if it is evident work has not started by time of the June 9 meeting then the Board would proceed to make a decision then.

**Continued Public Hearing - Definitive Subdivision and OSRD Special Permit Hearing/Danielsville, LLC**

Mr. Decoulos presented a brief overview of the progress made in the last month. He met with the Board of Health on 4/27/21 to review the shared septic, and they are on board with the concept. He notes that this needs to be reviewed with the Homeowner's Association and that approval of relocation of utility poles was already received from Selectmen, and that the Conservation Commission applications to amend the prior 40B project and a new notice of intent for the pedestrian bridge were also submitted. The final bridge design decided on was the 10 ft. length x 4 ft. width aluminum

on pilings with a composite deck. The trail plan and the stormwater management report will be reviewed by the Conservation Commission as well as to be reviewed by HL Graham who will give a recommendation to the Planning Board. Decoulos states he is preparing to finalize plans for HL Graham's review, and will have them available by Thursday, May 20. Decoulos asked for an extension to 7/30/21 on the public hearing. Thornton made a motion to extend the deadline for the subdivision approval to July 30, 2021. Jaquith seconded the motion and all voted in favor (5-0)

Thornton made a motion to continue the public hearing to the July 9, 2021 meeting. Spaulding seconded the motion and all voted in favor (5-0).

**Appointment - Meet with Special Town Counsel Mike Terry to discuss Cindy Lane Tripartite Agreement**

Regarding the bond for property listed above, the Board reviewed the summary sent by Attorney Michael Terry. The Board required the applicant maintain a bond that now has \$114,000 left. Applicant is asking to bond for the Board to release the remaining funds.

Baker has previously noted that there had been further surface deterioration of the roadway that would've been accepted by the town and that release of any of the remaining surety may be premature in the event the town make seek to do a future taking of the roadway in its entirety.

Terry suggested that Baker get confirmation that the developer does not intend to complete the entire roadway as depicted on the proposed for the purpose of turning it over to the town in its entirety. He notes that the Board doesn't have to consider the request until the applicant completes the work and follows through with an acceptance plan that the Town can accept. Terry notes that time is also a factor, in that if the developer doesn't want to finish and to turn over the roadway in its entirety the town is not obligated to accept a portion of road and in the interim as the roadway deteriorates the remaining funds could be used to make needed repairs.

Jaquith stated the Board should hold the whole amount. It has been 25 years with lack of response. Spaulding agrees as well as Thornton. Request has not been made formally. Original agreement states a date when the Board can call the amount. Terry will check to see if should update the agreement or not and will find out more on renewing. The Board is not releasing until a roadway is provided in agreement with the original plans.

**Request for Form J Lot Releases/Various Parcels at Falcon Ridge OSRD Subdivision**

Update presented by Attorney Jill Mann discussing Phase 1 of the Falcon Ridge project. She states that the municipal infrastructure is in place, that electrical, water services, site work on road, bridge and every street have a binder asphalt coat. They want to be able to sell the 18 Phase 1 lots as highlighted. The developer's bond estimate for work to be done was reviewed by Mann. She notes the contingency for Rowley is 30% remaining for approval. She compared the developers estimate to the contingency estimate of completion. They reduced the amount of lots to be released by 2, to be held as collateral for the town, until proper inspection is completed. She is requesting the bond be signed for 16 lots tonight. Thornton discussed the bonding and Mann spoke on replenishing of the construction funds. Thornton believes collateral/security for the last 2 lots not being released is a reasonable request. Spaulding states that he is comfortable with the request. David Jaquith notes that the completed release Form J has a signature space for Mark Savory who is no longer on the Board, and asks that the form be corrected. Mann states that form was sent in error and that she has brought the corrected form listing current members, as shown to the Board.

Thornton made a motion for the Board to release 16 lots and applicant maintain the bond. Spaulding seconded the motion and all voted in favor. (5-0).

**Continued Public Hearings - Special Permit/Site Plan Review Application for OSRD at 548 Wethersfield Street**

Continued to the June 9<sup>th</sup> meeting (5-0).

**ANR Plan - 12 Main Street**

Engineer, George Zamboras was present on behalf of the property owner to present an ANR plan for relocation of lot lines requested. Jaquith recused himself from discussion, as he is involved in the project. Zamboras discussed the lot lines to be reconfigured and how. Baker stated lot line relocation is a valid adjustment for the project. Signatory on the plan was assigned to Baker to get recorded for the Board.

Thornton made a motion approve the applicants ANR plan as proposed and approval to be acknowledge by Baker as signer. Urbaczewski seconded the motion and all voted in favor. (4-0)

Jaquith rejoined the Board.

**Continued Hearing - Special Permit/Site Plan Review for Accessory Garage Building/11 Rivers Edge Drive, John and Lauryn Deluise**

Per the existing and current by-law (decision by Town Meeting on May 3, 2021 to retain the minimum review threshold for review of new accessory buildings at 1,500 s.f.), applicant has not submitted a revision to their initial plan, as they are still waiting on their engineer. They indicated they will have something by the next meeting. Several neighbors were present and want to let applicant know that if nothing is forthcoming by the next meeting, they would ask the application withdrawn or denied. Thornton stating giving the applicant 30 additional days make sense, due to time spent waiting for approval of a bylaw, which did not happen. If no plan submitted by the next meeting, Board will suggest they remove the application until they are ready, as was also requested by abutter Melissa Roy.

Jaquith made a motion to continue the public hearing until June 9, 2021 meeting and then make firm determination at that point. Spaulding seconded the motion and all voted in favor. (5-0).

**Appointment for Informal Discussion - Petition for Street Acceptance from Residents on Lawrence Street**

Representative Cameron Kitasakos, Property Manager, present for the Board of Trustees of the residential community to explain the plan shown and give the history of the Lawrence Street Association, who have maintained the road since inception in the 1980's. He is asking the Board's advice on how to present to the town his request to accept a portion of the road to the circle point. The plan presented was the original 1980 plan, and it not actually as it looks now. Three private homes are located off Lawrence Street before the apartment entrance. The road is not built to present code.

Baker advised them to first generate petition signed by residents and complete an as-built and street acceptance plan. The Selectman would need to vote on and approve road acceptance. Baker explained such a change has to be accepted at a town meeting and can be a very laborious process.

Kitasakos has reached out to various engineers and needs to discuss action and cost with the trustees (25). He needs to research underlying issues on why the road was private initially, knowing there were two abutters on Lawrence Road initially and now there are three, who need access to their drive and the water connection. If the town were to accept the road, he needs to know the standard it should be built to.

The Planning Board would review the as-built only. The Selectmen should be notified of his intent and get their view on how to proceed and to what standard. Discussion included involving the three abutters to be included in on the cost. Discussed making the rear lot part of the association and other two lots having frontage off Boxford Road and not Lawrence Road, or be a part of the road acceptance. Thornton suggested reviewing the deed of rear the lot, which was part of the condo association initially. Kitasakos thanked the Board and will keep the Board apprised of his progress.

**Appointment for Informal Discussion** - Kevin Moriarty to discuss Prospective Microbrewery Operation at 60 Main Street Moriarty recused himself from the Board to discuss the project as the prospective applicant.

Moriarty presented background on what he has been doing, what he plans to do moving forward and asking for help on what may need to be done to make his plan a reality. He discussed his company, Anonymous Brewing, dba Anonymous Distribution. He contracted with other breweries to produce beer batches for distribution in 140 retail locations during 2019. Production was reduced due to covid. His next step is to open a micro nano brewery and tasting room in town.

He reviewed information with the Board regarding the 60 Main Street rental (back building, left hand side) with the plan to open a tap room and sell bottles and cans. Hours of operation would be Thursday – Sunday and closing relatively early. He said he would be seeking to create a low key, quiet, vibe. He notes he would need to obtain a liquor license. The intent is to have small operation, but in the future, start producing beer for sale. There could possibly be an outdoor area behind the building, on the patio area currently there. Owner of property, Jennifer Souza, gave information about her ownership and what else is going on there. John Cardillo, abutter, stated he is open-minded about the plan, hoping this would be a good neighbor. Moriarty's next step is to sign the lease, work out state and federal paperwork, and meet with the Selectmen regarding the liquor license. Baker stated the Nanobrewery itself only requires a site plan review for the parking layout but the property owner has indicated they also want to construct a new accessory building exceeding 1,500 sf so then that would require a special permit. Jaquith noted that it would also involve possible historic commission approval. The Board suggested that applicant should site all intended uses at one time to avoid having to go back to the Boards every time something is added.

Spaulding inquired about the parking situation; owner felt there was enough to go around but the Board stated they would need a written parking plan. They discussed the issue of traffic flow and safe access. Moriarty asked if he could need to get on the agenda for the next Planning Board. He stated that Souza is getting paperwork together for a site plan review and a special permit. With Moriarty's position on the Board, he may have to get representation, perhaps the owner acting as the applicant. Timeline goal is to be open by the end of August/beginning of September. Public hearing would need to be scheduled to notify abutters of the site plan review.

Moriarty rejoined the Board.

### **Other Business**

Jaquith states won reelection for another 5-year term on the Board.

Thornton asked for input on having a in-person meetings again starting in June. The members feel ready. Baker will look into the library facility and make sure in-person meetings are being allowed.

Minutes from February 10, 2021 were reviewed. Motion to accept minutes made by Moriarty and seconded by Jaquith. All voted in favor (5-0).

### **Adjournment**

Jaquith made a motion to adjourn. Spaulding seconded the motion and all voted in favor (5-0). Meeting was adjourned at 8:55 p.m.