

DATE: July 17, 2019
LOCATION: Rowley Public Library Meeting Room located at 141 Main Street
TIME: 7:30pm

Members Present

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

Thornton called the meeting to order at 7:30 p.m.

Continued Hearings

OSRD Special Permit – Falcon Ridge Subdivision – 430 Wethersfield Street

Thornton notes that the applicant has asked for a continuance to the August 14, 2019 regular meeting. Jaquith made a motion to continue hearing to August 14. Savory seconded the motion and all voted in favor (5-0).

Verdant Medical – 124 Newburyport Turnpike – SP/SPR – Zoning Retail/RE/BLI

Thornton notes that the applicant has asked for a continuance until the August 14, 2019 meeting. Jaquith made a motion to continue, Savory seconded, and all voted in favor (5-0).

623 Wethersfield Street – Definitive Subdivision Plan – (4-Lot Conventional Subdivision) – OD

Applicant asked for a continuance. Thornton made a motion to continue the hearing until August 14, 2019. Jaquith seconded the motion and all voted in favor (5-0).

New Public Hearings

Special Permit – Illuminated Drive-thru Menu Board at McDonalds, 155 Newburyport Turnpike

Mr. Bill Lucas representing McDonalds, states the company has initiated a rebranding program nation-wide and seeks to have a universal look at all their restaurants. The outside is being changed with an updated look, but no modifications to the original approval as the changes are cosmetic and the building footprint isn't going to change. Baker notes that the reason a special permit is needed in this case is under the illuminated signs bylaw due to the fact that the proposed digital drive-through menu board is digitally illuminated (pictures and text). He notes that the zoning official felt that in obtaining a special permit for illuminated aspect of the digital menu board, the Planning Board would also need to make a determination that a digital drive-through menu board, located behind the primary building, out of the public view, does not constitute an "animated or motion sign" which is prohibited by the zoning bylaw.

Lucas asserts that while it is reasonable that the illuminated aspect of the digital menu board be subject to special permit review, it is not reasonable to consider a digital menu board which is located behind the building, hidden from public view, as being a sign in the same sense of an "animated or motion sign" denoted in the bylaw. The primary reason being that the "animated

or motion sign” of the zoning bylaw is designed to be seen by the public and at a distance whereas the proposed menu board is designed to be seen only up close. Moreover, he notes the sign’s digital back is dark and only the pictures and text lettering will have illumination. He presents several pictures which show that although the sign is digital, the final effect will look no different from an internally lit sign with black background. The Board members discuss and agree there is a substantial difference between the proposed digital menu board and an illuminated “animated or motion sign” as denoted in the zoning bylaw. The Board does ask whether the menu board will be turned off after business hours. Lucas states that is the company’s policy.

Jaquith made a motion to close the public hearing. Urbaczewski seconded and all voted in favor (5-0).

A motion to grant approval for the electronic sign with the condition that it will be shut off after business hours are concluded, was made by Jaquith, and seconded by Spaulding. All voted in favor (5-0).

Other Business

305 Newburyport Turnpike – Schedule site visit pertaining to request for certificate of compliance.

Site visit scheduled for Tuesday, July 23, 2019 at 4:00 p.m.

TJ Murphy from Invaleon Technologies Corporation pertaining to status of Rowley Solar Project, 623 Wethersfield Street

Jonathan Sales, the Attorney for Invaleon Technologies and TJ Murphy was present at the meeting. Also, Attorney’s Tom Beatrice and Alan Braunstein were in attendance representing Rowley Solar LLC. Bonnie Berkowitz, of Rowley Solar LLC was also present. Thornton notes that at the last meeting the Board gave the applicants until the middle of July to finish up the punch list before they would be allowed to have facility go online. At that time, notification was made that there was law suit against Rowley Solar LLC for breach of contract, but both parties felt they were near agreement to settle the suit.

Attorney Sales stated that they were prepared to present a construction schedule to the Board tonight which he had already sent to Baker, however, at 3:30 p.m. this afternoon the landowner (Rowley Solar, LLC) sent them notice that she was filing for bankruptcy, presumably attempting to get out of the agreement with his client, Invaleon. Sales also stated that, under the circumstances, he was not able to discuss the schedule presented and can’t give an estimate on the completion or outcome.

Attorney Beatrice spoke on behalf of Rowley Solar LLC. He notes that the other Attorney on their team, who is also present, Alan Braunstein, is a bankruptcy attorney. Both parties stated their positions. Rowley Solar, LLC alleges negligent construction and detrimental site condition by Invaleon and asserted that a judge will decide who has a right to go forward at this point in time. Though a substantial amount of work needs to be done, everyone's goal is to get the project completed. Rowley Solar wants to complete project themselves.

After additional discussion on obligation to fulfill the contract, timing, and the dispute, the attorney Sales states that has an obligation to fulfill the terms of the contract in place. Before the bankruptcy filing, they had a signed agreement to file with the court to advance monies to pay the Light Department, the bond, and the construction company to come in to complete and clean up the site.

A resident, Bill Burns who lives on Wethersfield Street, opposite this site spoke saying the condition of the property was currently very poor. Progress needs to be made and the project needs to be completed ASAP.

Thornton stated that the Town can't get in the middle of the bankruptcy proceedings and that the discussion does not belong at this meeting. Thornton suggested taking a vote to give additional time for conditional approval and continue the discussion to the August 14, 2019, meeting. He feels that from the town's prospective, the Board is trying to give latitude to move forward on the project. Jaquith made a motion to continue the discussion at the August 14 meeting. Urbaczewski seconded and all voted in favor (5-0).

Other Business

The Board signed the mylar copy for the Definitive Subdivision Plan for 491 Main Street which was approved at the last meeting.

Urbaczewski made a motion to accept the minutes dated May 15, 2019. Spaulding seconded the motion. All voted in favor (5-0).

Jaquith made a motion to accept the minutes dated May 28, 2019. Urbaczewski seconded the motion. All voted in favor (5-0).

The Board signed approving expenses presented by Baker.

Thornton motion to adjourn the meeting. Jaquith seconded the motion and all in favor (5-0). Meeting was adjourned at 8:21 p.m.