

HOLLIS PLANNING BOARD MINUTES
September 1, 2020
Final

PLANNING BOARD MEMBERS PRESENT: Bill Moseley – Chairman; Doug Cleveland – Vice Chairman, Chet Rogers, Matt Hartnett, Ben Ming, and David Petry (Ex-Officio for Selectmen)
Alternates: Julie Mook

ABSENT: Rick Hardy, Jeff Peters

Julie Mook voting for Jeff Peters

STAFF PRESENT: Mark Fougere, Town Planner; Evan Clements, Assistant Planner

**THIS MEETING WAS CONDUCTED VIRTUALLY WITHOUT A PHYSICAL LOCATION
IN COMPLIANCE WITH GOVERNOR SUNUNU’S EMERGENCY ORDERS #12, 16, & 17**

1. CALL TO ORDER: 7:00 PM. B. Moseley led the group in the Pledge of Allegiance.

2. APPROVAL OF PLANNING BOARD MINUTES:

3. DISCUSSION AND STAFF BRIEFING

a. Agenda Additions and Deletions:

- **PB2020-024: Design Review** Proposed site plan/subdivision for the development of a 50 unit Housing for Older Persons development on a 36.09 acre property, Map 41 Lots 25, 28 & 44, 365 Silver Lake Road was requested by the applicant to be continued. Motion to table – Motioned by D. Petry; seconded by M. Hartnett – motioned passed unanimously

b. Committee Reports – none

c. Staff Report – none

d. Regional Impact – none

4. SIGNATURE OF PLANS

5. HEARINGS

- a. **File PB2020:026** – Proposed site plan for two ground mounted solar arrays of which one array will be 330 square feet and the other 430 square feet, Map 22 Lot 3, 223 Rocky pond Road, Applicant Zachary Haithcock – 603 Solar, Zoned RL Rural Lands.

M. Fougere stated his proposed site plan is seeking approval for a Conditional Use Permit to allow for the installation of two ground mounted solar arrays. Array 1 will be two 2x5 panel units with a total area of 330 SF. Array 2 will be one 2x7 panel unit and one 2x6 panel unit with a total area of 430 SF. Both arrays will be 9'9" tall. The entire footprint of the proposed system is 760 SF.

The proposed system is located in the north east quarter of the property behind the house and along the eastern side yard building setback. The subject property is heavily wooded and the proposed array is to be located approximately 360' from the road.

Motion to Accept Application – Motioned by D. Cleveland; seconded by D. Petry – motion passed unanimously

Zach Haithcock, 603 Solar, stated that the system is to be installed outside the wetland buffer and side yard setback. He stated that the proposed location is the only spot on the property that would be viable while adhering to all Zoning Regulations. He noted that the entire property is wooded and the array cannot be seen from the road.

D. Petry stated that his only concern was that the existing screening should be preserved or additional screening will need to be installed if the existing vegetation is removed at some point in the future. He noted that for most proposed ground mount solar proposals the Board does conduct a site walk. In regards the this specific application he did not believe that a site walk would be necessary since the array is so well screened, set far back from the road, and conforms to all dimensional requirements.

B. Moseley agreed that a condition of approval for this proposal should be that the existing screening be maintained or replaced if removed to ensure proper screening of the array.

B. Moseley asked about the lots surrounding the subject property.

E. Clements stated that the properties to the east were “flag pole” portions of back lots along Rocky Pond. The neighbor to the west has a significant amount of forest between the homes on both properties.

Public Hearing

Leslie Preissner; 222 Rocky Pond Road – stated that her home is directly across the road and she is in support of the proposal. She stated that she won’t be able to see the array because of all the trees and she supports renewable energy in Town.

Public Hearing closed

M. Hartnett stated that he does not think a site walk is necessary considering how screened the property is from the road.

Motion to Approve – Motioned by D. Petry; seconded by D. Cleveland – motion passed unanimously

- b. **File PB2020:022** – Proposed **Final** minor subdivision application of an existing 17.75 acre property into five frontage lots, Map 2 Lot 44, North Pepperell Road & Worcester Road, Owner/Applicant: Kathleen & Hans Olson, Zoned R&A Residential & Agriculture.

Continued Public Hearing – Aug 18th

Daniel Palmer; 167 North Pepperell Road – mentioned 3d renderings and thinks that they are critical to properly reviewing the project. He stated that the objective of the Rural Character Ordinance and he believes that this proposal has not met the requirement of the Ordinance. He also stated issues regarding run off and well water.

Richard Macdonough; 83 Worcester Road – Brought up 3d renderings. Stated that the landscaping plan is inadequate. Stated that Spruce trees grow in poorly and do not provide good screening.

D. Petry stated that the Board was aware of the Rural Character Ordinance and its implications and noted that 83 Worcester Road was the subject of a subdivision in this neighborhood and would not exist otherwise.

R. Macdonough stated that he would like to be a good neighbor and support the proposal, however, he believes that the plan as shown does not meet the Rural Character Ordinance requirements.

Tom Carr, Meridian Land Services stated that the Landscaping Plan was reviewed by R. Hardy and D. Gagne, Town Landscape Inspector, and updated the week before this meeting. The updated Landscape Plan has denser plantings.

He discussed the well location of lot 2-43, who abuts the proposal to the east. He stated that the 100' protective well radius does not overlap onto the proposal property. He noted that the State well protection radius is only 75'. T. Carr personally went and looked for additional abutter wellheads. Any wellheads he could identify we added to the plan. He contacted Skillings and Sons, Inc, a well drilling contractor based in Amherst, NH to get a professional opinion regarding water supply in the neighborhood. Skillings' opinion stated that this area of Town is not a shale interconnected fracture zone but is shale bedrock that is recharged from the surface. The wells generally do not influence each other.

Mark Hyde; 64 Worcester Road – stated that he is opposed to the development. He raised a concern about construction noise over the build out of the project. He also asked about run off down Worcester Road to Mine Brook (??) and damage to Worcester Road caused by construction equipment.

Hans Olson; 58 South Main Street, Natick, MA – thanked the Board for their efforts through this process. He also noted that his family has donated hundreds of acres of the land to conservation in the Town of Hollis and does not take selling this particular piece of land lightly.

Richard Macdonough; 83 Worcester Road – brought up the waiver request for additional studies that was submitted in a letter by Meridian Land Services to the Board. He noted the requirements that need to be met for the Board to grant a waiver.

T. Carr stated that the project could not send run off down Worcester Road. The drainage for the common drive is designed to direct flow onto Lots 2 & 3 to be detained and infiltrated. T. Carr clarified that the request for a waiver from additional studies was unnecessary because this project is a minor subdivision and those studies were not required.

M. Fougere noted that the former DPW Director met with the project engineer at the time to discuss drainage on Worcester Road. The present shared driveway and design is the result of those meetings.

Public Hearing closed

B. Moseley asked R. Hardy to comment on the proposed Landscape Plan

R. Hardy stated that himself, D. Gagne, and the landscape architect visited the site on August 18th. He discussed increasing the total number of plants from about 20 to well over 60. This included additional variety of plantings and an increased quantity of evergreens. He stated in regards to rural character, a lot of the plantings along the roadways have been designated as “no cut”. This will provide screening along the majority of the subject property. He also noted the plantings along the common lot line of Lot 2 & 3, which, is not typical but, designed the break up the visual impact from the east to west viewpoint of the three lots along Worcester.

He noted that the intent of the Rural Character Ordinance was not to reforest the entire parcel or reclaim agricultural land. Its intent is to lessen the impact and buffer new development from the public right-of-way. He stated that this plan has been revised several times and believes that it meets the intent of the Rural Character Ordinance. He also stated that he does not need any 3d renderings or elevations based on the density of screening proposed.

M. Fougere stated that the Town Engineer did take a look at the water supply in this neighborhood and while he is not a Hydrologist, but did state that based on the large area of development and the spacing of wells, there is a low probability that the installation of five additional wells will affect neighboring wells and states that additional investigation is unwarranted.

C. Rogers asked about the missing 3d renderings that residents had been asking about.

M. Fougere stated that during the January meeting, the Board discussed the Rural Character Ordinance and how the proposal would address. For minor subdivisions this is done with a Landscape Plan. One of the board members mentioned 3d renderings but did not receive support from the rest of the Board for those renderings.

D. Petry stated that each landowner needs to understand the plantings and structures on their property and the responsibility to maintain them. He also noted a concern about the lots selling at different times and the required common way drainage and landscaping not be being installed promptly.

M. Fougere suggested an outline of items to be included in the deeds of the properties.

B. Ming asked if Lot 1 sells before Lot 2 would the screening on Lot 2 not be installed.

M. Fougere stated that was correct.

B. Ming raised a concern that the screening and drainage would be installed efficiently if the lots sell in a hap-hazard manner.

202 R. Hardy stated that it would be beneficial if Lot 2 sold first since it has the majority
 203 of screening.
 204
 205 C. Rogers asked if the developer could install the screening before the lots are sold.
 206
 207 B. Moseley asked how that stipulation would be worded.
 208
 209 C. Rogers stated that before the lots could be sold the screening had to be installed.
 210
 211 M. Fougere stated that typically all landscaping had to be installed prior to the C/O
 212 of the home.
 213
 214 D. Petry stated that he would be in favor of requiring the landscaping to be installed
 215 now. He also noted the constructing the driveway would impede the landscaping
 216 installation.
 217
 218 M. Fougere noted that all the drainage would have to be installed at the same time as
 219 the driveway.
 220
 221 D. Petry asked who would be responsible for the common drive and making sure
 222 that all the drainage is installed correctly across potentially three different property
 223 owners.
 224
 225 M. Fougere stated that there was another situation similar in Town to this. The first
 226 buyer had to install the drainage. Maybe put a condition where as soon as the
 227 driveway goes in, all improvements and landscaping need to be installed, regardless
 228 of which lot it is.
 229
 230 D. Petry stated that it would be cleaner to have one construction company and one
 231 landscaper to install everything according to the plan. Lot 2-44-3 and Lot 2-44-4 are
 232 separate from this issue as they have their own access drive ways and drainage and
 233 landscaping.
 234
 235 R. Hardy noted that this landscaping plan is significant for the size of the
 236 development.
 237
 238 M. Hartnett clarified that the only waiver that is proposed for this application is for 3
 239 lots being accessed by a single private common drive.
 240
 241 M. Fougere stated that was correct.
 242
 243 **Motion to approve waiver to allow for 3 lots to be accessed by a private**
 244 **common drive** – Motioned by M. Hartnett; seconded by D. Cleveland – motion
 245 passed unanimously
 246
 247 **Motion to approve application with conditions** – Motioned by C. Rogers;
 248 seconded by M. Hartnett – motion passed unanimously
 249
 250 c. **File PB2020:023 – Design Review:** Proposed site plan to show the addition of one
 251 residential unit to a site with 5 existing housing units with a ZBA condition that a

252 number of existing structures be removed from the site, Map 59 Lot 24,
253 Applicant/Owner: Raymond Lorden, 11 Federal Hill Road, Zoned Recreation.
254

255 M. Fougere stated that the Board conducted a Site Walk before the meeting today.
256 The Board looked at the structures to be removed and the location of the new septic
257 system.

258 B. Moseley stated that the Board's biggest concern was protecting Silver Lake from
259 contamination during the demolition of the cabins along the shoreline.

260 Randy Haight, Meridian Land Services, stated that the Site Walk was successful. He
261 noted that the cabins will be lifted off the pilings and brought into the site before
262 they are demolished.

263 E. Clements asked if the cabins were structurally sound enough to be lifted off the
264 pilings in once piece.

265 R. Haight responded that the cabins had been evaluated and will be able to be lifted
266 in one piece.

267 D. Petry stated that this seemed like a straightforward proposal. Most of the issues
268 with the site were worked out at the ZBA. The Heritage Commission reviewed the
269 pavilion and found it to be not significant enough to be worth saving.

270 **Motion to proceed to Final Review** – Motioned by D. Petry; seconded by D.
271 Cleveland – motion passed unanimously

272

273 **6. OTHER BUSINESS**

274 a. Potential Zoning Changes
275

276 M. Fougere began by discussing the list of potential zoning changes:

277 Workforce Housing: Based upon an opinion from the town's attorney, along with
278 planning staff comments, the petition zoning amendments adopted over the
279 objections of the Board in March have placed the town out of compliance with the
280 workforce housing statute. The Board should put forth a series of amendments to
281 address this critical issue.

282 M. Fougere noted that he is particularly concerned with the changes that were made
283 to the Multi-Family Zone. The Board should review and discuss amendments that
284 bring the Town back into compliance.

285 B. Moseley asked what the consequence would be if the Town lost a lawsuit
286 regarding the construction of Workforce Housing units.

287 M. Fougere stated that the Workforce Housing statute was passed over 10 years ago
 288 and makes it mandatory that communities provide an opportunity for the creation of
 289 Workforce Housing which affordable to the median income of our area which is
 290 approximately \$360,000. The statute also requires that multi-family housing be
 291 allowed somewhere in the community. In Hollis the Board chose an area east of the
 292 Nashua River where there was access to public water and roads. There also needs to
 293 be an ability to construct Workforce Housing in in our largest residential zone witch
 294 is the Residential & Agricultural Zone. If the community did not fulfil these
 295 requirements then an applicant that was denied for a Workforce Housing proposal
 296 could go to court and win a builder's remedy and their application would be
 297 approved by the judge. This is what happened to the Town of Windham. The
 298 developer proposed 5 duplexes on 2.5 acres. The ZBA denied the proposal but the
 299 developer went to court and got the plan approved.

300 M. Fougere stated that this is not something that he wants to see the Town go
 301 through. He does not want to see a judge approve a plan and have the Planning
 302 Board and the Town not have any input in a Workforce Housing proposal.

303 Drainage/Stormwater: The existing rules governing Stormwater in Hollis are
 304 scattered throughout the zoning ordinance, making for an unruly regulatory scheme.
 305 In addition, the ramifications from the regulations has, in some cases, directly
 306 contradicted the community's goal of maintaining rural character. Although the
 307 clear goal of drainage rules is to protect adjoining property from damage, the
 308 existing regulations have resulted in dramatic landscape changes that are
 309 unnecessary (photo). In addition, wetland buffer zones have been unnecessary
 310 disturbed to provide drainage ways for project runoff. These scattered ordinances
 311 should be removed from the zoning ordinance and be replaced with a comprehensive
 312 drainage regulation that would oversee all subdivisions and site plan applications.
 313 The EPA is in the process of updating the MS4 Regulations and once these are in
 314 place, any changes that are required to comply with these new rules can be
 315 accommodated through planning board action versus waiting to town meeting.

316 M. Fougere stated that the Town's current drainage regulations are overbearing and
 317 scattered through the Zoning Code, Site Plan, and Subdivision Regulations. This
 318 makes enforcement challenging and requires site work that is in conflict to the Rural
 319 Character Ordinance. Staff is proposing that the drainage regulations be removed
 320 from the Zoning Code, which is unusual, and have the Town Engineer create a
 321 reasonable drainage program that follows standard practices. The goal is to protect
 322 downstream properties with clear regulations that does not over design. He also
 323 noted new Stormwater requirements coming from the EPA in the MS4 area. With
 324 these impending new Federal requirements, having the drainage requirements in the
 325 regulations and not the Zoning Code makes changing them much easier.

326 Sign Ordinance: A U.S. Supreme Court decision relative to signs specifically ruled
 327 that sign regulations may not regulate the "content" of a sign; meaning signs for

churches, politics or real estate cannot be expressly controlled compared to other signs. Amendments need to be made to the Ordinance to comply with this Court decision.

M. Fougere stated that while the overhaul of the Sign Ordinance is required, it may be too large a task for this zoning season. A specific aspect that needs to be immediately addressed is Political Signs. Staff have been getting a lot of calls regarding political signs and the current regulation for Political Signs is unenforceable.

Down Zoning Rural Lands: The Board has discussed downzoning land within the Rural Lands area from 2 to 3 acres.

B. Moseley asked where the Rural Lands zone is located.

M. Fougere stated that it is basically the northwest area of the community, north of NH 130 such as Rocky Pond Road, the dirt part of Federal Hill Road near Plain Road.

D. Petry suggested that the Board hold a joint workshop meeting with the ZBA to discuss zoning proposals. He also noted that there may be some merit to the petition warrant article regarding the Housing for Older Persons Ordinance that should be discussed.

D. Petry stated that changing the Zoning Code would be a smoother process if the Board worked with residents on their ideas rather than going the petition warrant article route. Amending zoning is a delicate process and making the zoning code so restrictive leaves the Town open to potential trouble.

M. Fougere noted that Hollis already has some of the most restrictive zoning in the state and this has allowed the community to retain its rural beauty.

D. Petry asked about the status of the Master Plan Update.

M. Fougere stated that staff was finalizing the final chapter then the Board can conduct a Public Hearing.

B. Ming asked about the ramifications of adding the setback definition. He noted that there is language through the zoning code that implies a setback but does not specifically use the word setback.

372 **7. ADJOURN**

373 There being no further business, D. Petry presented a non-debatable motion to adjourn.
374 Motion seconded by. C. Rogers and unanimously approved. Meeting adjourns at 9:04 PM.

375 Respectfully submitted,

376 Evan J. Clements,

377 Assistant Planner