

**Town of Leicester Planning Board  
Meeting Minutes  
February 19, 2019**

MEMBERS PRESENT: Jason Grimshaw, Chair; Debra Friedman, Vice-Chair; Sharon Nist, Robyn Zwicker, Alaa Abusalah

MEMBER ABSENT: Andrew Kularski

IN ATTENDANCE: Michelle Buck, Town Planner, and Wanda Merced, Department Assistant.

MEETING TIME: 7:00 PM

**AGENDA:**

1. 7:00PM **Public Hearing, Special Permit, continued**  
710 Main Street/SP2018-03, 3 duplexes (Applicant: Rapid Transit LLC)
2. 7:15PM **Public Hearing, Definitive Subdivision Plan**  
Oak Bluff Lane/SUB2018-01, 6 lot residential subdivision (Applicant: Central Land Development Corp.)
3. 7:30PM **Approval of Minutes:**  
1/15/2019
4. 7:35 PM **Town Planner Report/General Discussion:**
  - A. Zoning Bylaw Amendments for May 2019 Town Meeting
    - Ground-Mounted Solar
    - Earth Fill/Removal
  - B. Miscellaneous Project Updates
  - C. Board Member Committee Update
5. **Adjourn**

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Jason Grimshaw called the meeting to order at 7:06 PM

**Public Hearing, Special Permit, continued**

**710 Main Street/SP2018-03, 3 duplexes (Applicant: Rapid Transit LLC)**

Ms. Buck stated that the Applicant submitted revised plans late on Thursday (February 14, 2019) and Quinn Engineering needs time to review them and comment so a continuance will be needed.

MOTION: Ms. Nist moved to continue 710 Main Street to March 5, 2019 at 7:15 PM.

SECOND: Ms. Abusalah. Discussion: None

VOTE: All in favor.

**Approval of Minutes**

MOTION: Ms. Nist moved to approve the minutes of February 5, 2019.

SECOND: Ms. Abusalah. Discussion: None

VOTE: 3 in favor/1 abstention (Deb Friedman)

Board Member Committee Updates

Ms. Abusalah reported that the next EDC meeting will be held on February 28<sup>th</sup>.

Ms. Friedman stated that she missed last year's Central Mass Planning meeting because she was out of the country. She commented that she will be out of the country again this year and that she hopes a Select Board member will be able to attend the meeting in March.

Ms. Friedman announced that she will not be present at the March 19<sup>th</sup> meeting and Ms. Abusalah announced that she will also not be present for that meeting as well. Ms. Buck stated that March 19<sup>th</sup> is the zoning hearing and that may be a problem. Ms. Friedman commented that Ms. Buck could still schedule them as long as there is a quorum she would be all set. Ms. Buck and Ms. Friedman agreed that the Board would have to a lot of discussion on March 5<sup>th</sup> so that they can finalize everything on March 19<sup>th</sup>.

**Town Planner Report/General Discussion:**

Zoning Bylaw Amendments for May 2019 Town Meeting, continued

*Ground-Mounted Solar:*

Ms. Buck stated that the main change she made from the previous draft was adding a paragraph requiring that if you clear one acre you reserve another area equal to four times the acreage cleared. She suggested that the Board only require that in the SA district. Ms. Buck said that she's found that some towns have a total acreage limit on tree clearing and found one town having a percentage limit of the total lot area. She stated that the Board seemed to want more protection in the SA district so she included this in here as an option and was looking for the Board's input. Ms. Friedman said that she would like to limit it to the percentage of the lot.

Jan Parke, Common Ground Land Trust President, addressed the Board saying that the Spencer Select Board appointed a bylaw review committee for solar and did not put a moratorium on; they just have a review committee. She said that Spencer is holding a public forum this Thursday at 6:30 PM in case anyone from the Board was interested in attending. They will be taking recommendations back to their Select Board before it goes on their spring town meeting agenda. Ms. Parke stated that they do a percentage and thinks its 50% or 60% of the total acreage that they purchase so that there has to be a buffer.

Ms. Parke said that they are trying to tighten up on their solar bylaw because they currently have 17 more on the books and there is no moratorium. She said they're really trying to prevent taking trees down and using agricultural prime soil. She stated that it is stated in their current bylaw that they are supposed to avoid agricultural prime soil but they are not abiding by it. Mr. Zwicker asked what damage would be done by putting solar panels into prime soil and Ms. Parke answered that they believe it does do damage but solar developers do not. Ms. Buck stated that this was a complicated issue and asked the Board's suggestion on a percentage limit and they suggested 60% in SA district only.

Ms. Parke commented about her concern with erosion control. She stated that most of the problems that she has seen and the complaints from neighborhoods have all had to do with erosion control. Ms. Friedman stated that they've been fortunate to not have that problem like so many other towns have. She further stated that it's also one of the reasons that they wanted a moratorium to be able to look at these sorts of things and see what other towns are doing in order to tighten up our bylaws. Ms. Parke asked if they have looked into slope pitch limit and Ms. Buck answered that they may need to look into that to strengthen the language related to this. Mr. Parke stated that she believed that would be important. Mr. Buck responded that she will take a further look to see what other towns are doing.

Mr. Friedman stated that the percentage of land being cleared and erosion control are the two most important issues. Ms. Parke suggested that site lines also be considered and asked if there is a setback and the Board said there are setback limits. Mr. Friedman commented that they have

strict guidelines to protect abutters as much as they possibly can. She stated that someone can buy the property if they don't want to look at it. Ms. Parke asked if there was something in it regarding protection of wetlands and Ms. Buck answered yes.

Ms. Parke asked about trails being protected and suggested putting something about recreational trails still being allowed as a public access. Ms. Friedman stated that it's up to the owner of the property to give access and property owners will be able to say no; it's their property. Ms. Parke asked the Board to consider public access for the future and Ms. Abusalah stated that she felt that they didn't have a right to put any restrictions like that on property owners. Sandy Wilson said that the snowmobile club contacts every single property owner every single year to get permission for access to their trails. Ms. Wilson commented that her concern is about the airport because they've already disrupted snowmobile trails when putting in the new landing gear.

Ms. Buck reviewed page 2 of the draft and she stated that she changed R2 from a special permit to prohibited after noticing an error in the bylaw. She handed out copies of pages 17 and 60 of the existing Zoning Bylaw to the Board and explained that the large-scale and medium-scale columns seemed to have been reversed. Ms. Buck said that she will review this more closely to make sure there are no other errors in the bylaw and make sure everything is consistent.

Ms. Buck again asked the Board about putting a limit on solar farms. The Board confirmed that they were fine with the number being 20 for now. Ms. Buck reported that Massport would be looking to install 4 solar farms in Leicester; the 5<sup>th</sup> one will be in another town. She said she contacted Massport and asked them if it is 1 project or 4 separate projects. Ms. Buck said they responded via email saying "Massport views the Leicester sites as 4 separate sites but one overall project, meaning that there will be one entity selected to install solar at the sites. As the sites are on 4 separate parcels, National Grid and DOER would view these as 4 separate projects." She suggested putting language in the bylaw saying if on separate parcels they will be considered separate projects and the Board agreed. Ms. Friedman asked how many solar farms are currently in Leicester and Ms. Buck answered 12. She explained that there are 8 more left but Massport is expected to take 4 of those. The Board again agreed that 20 solar farms is a reasonable number.

Ms. Parke asked if there is anything in the bylaw about decibel levels. Ms. Buck answered that there is no mention of decibel levels specifically but stated that the bylaw says "inverters shall be installed as far from abutting structures as feasible to mitigate potential noise impacts." She went on to say that unless these are placed at the property line, you can't hear them. Ms. Buck stated that decibel levels are about the same as a home air conditioning system. Mr. Zwicker commented that the buffer zone would take care of that issue.

**Public Hearing, Definitive Subdivision Plan, continued**  
**Oak Bluff Lane/SUB2018-01, 6 lot residential subdivision (Applicant: Central Land Development Corp.)**

Brian MacEwen of Graz Engineering, LLC addressed the Board. He explained that the revisions that were done were to roadway alignment and curb cut to satisfy vehicle access. He explained that based on the Highway Department's comments there wasn't enough room to maneuver the bus that would be using the cul-de-sac. He said that based on that, they changed the curb radius from 30 to 40 to allow maneuverability for the buses.

Mr. MacEwen commented that they are still working on the pond out back. He stated that at the last public hearing, the abutter to the north was concerned about the expansion of the pond traversing to the south of his property. He said that he had hoped that the abutter, John Pajer, was present so he could have showed him the changes. Mr. MacEwen said that he did additional field survey work but realized there wasn't enough room to relocate the pond where Mr. Pajer wanted. He told the Board that they came up with new configurations and explained that it will be more elongated and that they are pulling it up the hill a little bit.

Mr. MacEwen stated that he'll be submitting the vehicle tracking plan and site distance plan profile to Quinn Engineering for his technical review along with the final stormwater report and reconfiguration of the pond. He stated that he believed everything has been covered expect the waiver for street trees. The Board confirmed that the trees are still outstanding. He stated that he will add trees spaced out and add notations on the plan as well. He suggested that the street trees be planted at the same time as top coat pavement.

Mr. MacEwen stated that they are going to remove their waiver for street lights and provide a statement of where the street light will be placed. He said he was not sure if he should remove the street light waiver or not and Ms. Friedman said that it should stay because he's asking for a modification. Mr. MacEwen answered that they would do the same thing as they do with the trees and provide a note as how they are going to come to an agreement. Mr. Friedman stated that as long as it is in the decision, they will be all set.

Mr. Grimshaw asked if there were any questions or comments from the public and there were none.

MOTION: Ms. Nist moved to continue Oak Bluff Lane to March 5, 2019 at 7:30 PM.

SECOND: Ms. Abusalah. Discussion: None.

VOTE: All in favor.

### **Town Planner Report/General Discussion Continued:**

#### **Zoning Bylaw Amendments for May 2019 Town Meeting, continued**

##### ***Earth Fill/Removal:***

Ms. Buck stated that she included a copy of both the new and old bylaw to review with the Board. She said that the old one was 13 pages long and she was able to narrow it down to 8 pages. She stated that she is still working on it to make it more understandable. Ms. Buck stated that the previous draft by Town Counsel referenced earth filling and earth removal in the beginning of the bylaw but did not mention removal in most of remainder of the bylaw. She said that she will be including more language regarding earth removal throughout the bylaw. Ms. Buck commented that she felt that the thresholds should either be volume or weight, but not both. She said that she will go through it again to see if there is anything else that can be pared down. Ms. Friedman reminded Ms. Buck to contact Perry Dube saying that he's fair and thinks he would be a good person to read this over and give feedback.

Ms. Buck stated that she rewrote the exemptions to make them easier to understand. She pointed out that she added the following: "earth removal or the placement of fill associated with normal use of a cemetery"; "earth removal or the placement of fill associated with grading in the course of normal and customary use of land in connection with bona fide agriculture operation that is

exempt under MGL c.40A, §3”; and “operations lawfully in existence at the time of adoption of this bylaw to the extent that such operations are protected by MGL c.40A, §6”. She said that she wanted to make those more clearer. Ms. Buck pointed out the section labeled “Uses Prohibited in all Districts” on the draft and specifically mentioned existing subsection 5.3.04 “the stripping and removal of topsoil for use outside of the Town of Leicester boundaries”. She felt that this contradicted the section regarding the earth removal of gravel, sand or stone removal for commercial venture mentioned the page before. She asked the Board if they wanted to prohibit gravel pits and Mrs. Friedman said they want to prohibit the removal of topsoil for use outside of Leicester. Ms. Buck commented that she will continue to work on this bylaw and Ms. Friedman stated that Ms. Buck has been doing a great job with this and the Board agreed.

### Miscellaneous Project Updates

#### *Chapel Street*

Ms. Buck reported that she did not receive a proposal from Chapel Street. Ms. Friedman asked if the February 11<sup>th</sup> meeting with Senator Moore happened and Ms. Buck answered yes. Ms. Buck explained that the project proponents seemed very unprepared for the meeting. They didn’t appear to have read the dam safety order she had given to them in advance of the meeting and weren’t able to answer questions about the project.

Ms. Abusalah asked if it was that they don’t want to invest the money into this project and Ms. Buck stated that it seems that they’re trying to have a conceptual proposal and amend the zoning to enable them to re-sell the property quickly. Ms. Friedman stated that she personally believes that they don’t have the financial depth to purchase it and get it through the conceptual approval to sell it off like that.

Ms. Abusalah asked what the zoning was at the site and Ms. Buck said that property is zoned B (Business). The B district does allow multi-family, but the proposal doesn’t seem to conform to density limits. Ms. Buck commented that she’s been unable to help the developers because they keep changing the number of units, the type of units, height, etc.

Mr. Grimshaw stated that his advice to them, had they attended the meeting, would have been to tell them to continue work on a proposal and come back later. At this point there would be no reason to continue discussions but they would be welcome to start the process for the fall Town Meeting. Ms. Buck said that they met with an attorney whom they may hire to write proposed zoning amendments.

#### *Library*

Ms. Abusalah asked when it was opening and Ms. Parke answered that the sign on the door said it would be opening in May 15<sup>th</sup>. Ms. Parke stated that the bookcases are finally coming in, but the soft furniture has not been delivered yet and they can’t open until it is fully furnished.

#### *Brookside Liquors*

Mr. Zwicker asked what the status was regarding their signage and Ms. Buck reported that the Building Inspector, Jeff Taylor, spoke with the owner and the owner will be removing the sign. Mr. Zwicker suggested that they set a time frame to remove it and Mr. Friedman agreed with his suggestion. Ms. Buck said that she would ask Mr. Taylor about the sign again.

### *Eastern Pearl*

Ms. Friedman asked how the restaurant was coming along and Mr. Buck answered that nothing has been done outside that required Planning Board approval. She stated that there still are issues to work through with MassDOT and the Sewer Department.

### *Hillcrest Water Tank*

Mr. Zwicker asked if the old tower has been removed and Ms. Buck answered that the Board granted an extension of the deadline to commence work in the fall. Ms. Wilson stated that this will be going out to bid in the middle of March.

### *Millbrook Building/88 Huntoon (Marijuana Cultivation)*

Ms. Friedman asked what the status was and Ms. Wilson reported that they pulled building permits in January.

### *Water Street*

Ms. Parke asked what would be happening to the emergency light left on Water Street where the old fire station building was and Ms. Wilson answered that it is up to the state to remove that. Ms. Wilson stated that they are currently storing LED lights in the old building. She said that they plan to replace the street lights in town this year and stated that they did get approval to sell the building.

MOTION: Ms. Nist moved to adjourn

SECOND: Ms. Friedman

VOTE: All in favor.

The meeting adjourned at 8:25PM

Respectfully Submitted,

Wanda Merced, Department Assistant

### **Documents included in meeting packet:**

- Agenda
- Memo from Town Planner to the Planning Board dated 2/14/2019 regarding 2/19/2019 meeting
- Meeting minutes dated 2/5/2019
- Copy of proposed amended solar bylaw
- Copy of existing and proposed amended earth fill bylaw

### **Documents submitted at meeting:**

- Copy of pages 17 and 60 from the Town of Leicester Zoning By-Laws