

**Town of Leicester Planning Board
Meeting Minutes
January 22, 2020**

MEMBERS PRESENT: Debra Friedman, Sharon Nist, Jaymi-Lyn Souza

MEMBERS ABSENT: Jason Grimshaw, Andrew Kularski

IN ATTENDANCE: Michelle Buck, Town Planner, Maureen Schur Department Assistant

MEETING TIME: 7:00PM

AGENDA:

1. 7:00PM **Request for Lot Releases, Oak Bluff Lane (SUB2018-01)**
(Applicant: Central Land Development Corp.)
2. 7:15PM **Discussion, Enforcement Action, Mulberry Solar #3 (SP2018-02)**
Tree Clearing in Required Buffer for Solar Farm (Applicant: CS Energy)
3. 7:45PM **Update, May 2020 Zoning Bylaw Amendments**
 - A. Pleasant Street/Neighborhood Business
 - B. Outside Storage
 - C. Water Resources Protection Overlay District
4. 8:00PM **Parking Waiver, Wal-Mart (SPR2004-03)**
(Applicant: Massa Multimedia Architecture)
5. 8:15PM **Town Planner Report/General Discussion:**
 - A. Miscellaneous Project Updates
 - B. Board Member Committee Updates
 - C. March meeting dates
6. **Adjourn**

Ms. Friedman called the meeting to order at 7:03PM

Request for Lot Releases, Oak Bluff Lane (SUB2018-01)

Ms. Buck gave an overview of the request for lot releases. She explained the revised estimate of \$127,768.05 received from Kevin Quinn, Quinn Engineering. The applicant has 2 options regarding sign-off on the binder. The applicant can wait until testing is done and put up the surety in the amount of \$127,768.05 or put up a higher surety (\$179,342) and request the lot releases. Ms. Buck informed the Board that the Fire Department has signed off on the cistern and the applicant needs to submit a streetlight plan. The applicant requested a 6-month extension in order to be able to discern where the streetlights will be placed. Mr. Schold told the Board he had a conversation with Kevin Quinn and he is requesting 3 sites along the road be tested to determine if the binder course is appropriate. Mr. Schold stated he would speak with the Highway Superintendent to see if he would be amenable to doing the core testing at this time of year. Mr. Schold expressed frustration over not completely understanding that the binder course needed to be witnessed by an engineer; he was under the impression he simply had to notify Kevin Quinn he was doing the binder course. He explained the expense related to this action and that it costs a developer \$2,000-\$3,000 to do the testing after the road has been paved.

MOTION: Ms. Nist moved to set the surety amount of \$127,768.05 if the core testing is done and \$179,342.25 if the testing is not done now.

SECOND: Ms. Souza
DISCUSSION: None
VOTE: All in favor

Mr. Schold was told the surety could be a combination of cash, bond, or Letter of Credit.

MOTION: Ms. Nist moved to approve the extension request for the submittal of the streetlight plan to September 1, 2020

SECOND: Ms. Souza
DISCUSSION None
VOTE: All in favor

Discussion, Enforcement Action, Mulberry Solar #3 (SP2018-02)

Mr. Tare, senior project manager for Mulberry Solar #3, introduced himself, the engineer Mr. Howe and the project manager Mr. Kurahatti. Mr. Tare gave an overview of the additional tree clearing that took place within the 100' buffer. He explained an engineer did a clearing limits site review. He presented a corrective action plan to address the unauthorized clearing within the buffer. He explained how CS Energy came up with the number of trees that need to be planted in each of the areas where unauthorized clearing occurred. He also stated the Town has 2 options, they could hold back on the final sign off on the building permit and C&S Energy will put up a \$200,000 bond. He also stated there is a 2-year warranty on the trees just in case some that are planted do not take hold and grow.

Ms. Buck pointed out the plan doesn't address the first 50' of the buffer zone that was cleared. Mr. Tare explained the proposed planting of trees 4-6 feet in height and 1-1.5 inches in diameter and in place of all the low shrubbery that was removed they've proposed planting a pollinator mix. Mr. Tare explained the pollinator mix would be different from the "regular seed mix" that is planted between the rows of solar panels. Several of the Board members did not feel the pollinator mix was an appropriate option for all of the growth that was removed.

There was some discussion as to how an error of this magnitude occurred. Mr. Tare explained CS Energy was given the incorrect CAD file from the previous engineering company. Mr. Howe, Beals and Associates, explained his firm had been hired the end of December and were not involved in this project before that time. Mr. Howe explained there is concern over the stormwater basins as they feel will any storm, not just a 100 year storm, the basins will overflow into the spillways.

Ms. Friedman asked if there were any questions from the Board and there were none. She then asked if there were any questions from the public. Mr. Jack Daige, trustee for the Daige family property, spoke as an abutter. He is requesting 10 foot white pines be planted along his family's property line in offset staggered rows. Mr. Tare stated the arborist they are contracted with recommends 7 foot trees instead of 10 foot.

Ms. Jan Parke asked if the Town would consider levying fines against CS Energy as the cutting was done beyond what the permit allowed. She also asked about low shrubbery such as blueberries being planted as opposed to the pollinator mix. The Board told Ms. Parke the Town would look into all possibilities.

Ms. Buck explained the Board just received the restoration plan at the meeting and would not be voting on the plan this evening. They need time to review the entire proposal. She also stated she had spoken with the Town Engineer, Kevin Quinn and with Town Counsel [Attorney Amanda

Zuretti of Petrini & Associates] regarding the clearing and a detailed survey of the damage. Town Counsel suggest photographic evidence of the size and type of trees that were cut down. Ms. Buck explained the cost of this type of survey would be incurred by the applicant. She explained Mr. Quinn would work with a subcontractor such as Jarvis Land Survey, Inc. in order to provide a comprehensive survey. Town Counsel also strongly recommended a Cease and Desist order be issued as well as a full Public Hearing be held to allow the public an opportunity to be informed as to the situation. Mr. Quinn would provide an estimate of the cost of the survey to the town and to the applicant.

Ms. Buck explained due to hearing notice deadlines the earliest the public hearing to take place would be at the February 18, 2020 meeting. Mr. Howe strongly disagreed with a Cease and Desist Order. He stated there is no installation of solar panels or racking currently underway, but he feels the stormwater basins should be constructed now. Ms. Buck explained if Kevin Quinn feels the stormwater basins are necessary to stabilize the site CS Energy would be given permission to install them. Ms. Friedman stated the Board would defer to Mr. Quinn to see what is necessary to stabilize the site.

MOTION: Ms. Nist moved to issue a Cease and Desist Order, effective immediately, prohibiting any and all work on the project known as Mulberry Solar #3 (Planning Board permit #SP2018-02), except for limited work necessary to stabilize the site. Any such stabilization work requires preauthorization and review by the Town's peer review engineer. Stump removal is explicitly prohibited.

SECOND: Ms. Souza

DISCUSSION: Mr. Howe stated there is no clearing being done at this time, there will be no stumping at this time and if there is a problem with stormwater controls would Mr. Quinn allow stormwater controls to be put in. He also asked if the Town/Board has any preference as to the potential mitigation beyond the pollinator mix. Several Board members stated they felt the pollinator mix is inadequate as those types of mixes generally only last a year or two and it doesn't replace all the scrub trees that were removed. Ms. Buck explained this is uncharted territory for the Town as they have never experienced such a large area of unauthorized clearing and the Town would need to look into how to replace years' worth of growth. She also informed the Board and the applicant that Bryan Milward, Economic Development Coordinator, would be handling things in her absence.

VOTE: All in favor

MOTION: Ms. Souza moved to hold a Public Hearing on March 10, 2020 at 7:00pm

SECOND: Ms. Nist

DISCUSSION: None

VOTE: all in favor

Update, May 2020 Zoning Bylaw Amendments

Ms. Buck explained she is currently working on amendments for the May Town meeting. Ms. Buck states that she was trying to think of a way to address the concerns of reuse, particularly of the 11 Hankey Street building, and that what she has included in the packet is different than what they had before. She states that rather than a more comprehensive amendment of the Neighborhood Business zoning district, this is a more limited amendment of an existing section of the bylaw called the Adaptive Reuse Overlay District which allows more flexible rules for

redevelopment of historic buildings. Ms. Buck states she is amending it in a way that allows makerspaces, brew pubs, breweries, and wineries. She states she also included mixed-use development to address some of the expressed interest in live/workspaces. Ms. Buck states she also included an amendment to our definition of mixed-use development. She states we have two different kinds of mixed-use development in the bylaw. We have horizontal mix where commercial and residential are on one floor and then there is vertical where they are on separate floors. She states that recently there have been a couple of inquiries about the potential of someone wanting a business and just one residential unit. For vertical mix, the bylaw states 1-3 units or multi-family, however, for horizontal there is more of a grey area and it is not clear if you could have a commercial use and one unit. Ms. Buck states she put this information in the draft so the Board can review it. Ms. Buck states that the way the Adaptive Reuse Overlay District is written now is that you can only do multi-family housing if your eligible for inclusion on the state's Subsidized Housing Inventory. She states she added language to perhaps only make it required for ten or more and potentially not requiring that for live/workspace. Ms. Buck states that these changes are suggestions and up for discussion. The Board had no further questions. Ms. Buck states it will be filed with the Town Clerk and we will start the hearing process.

Parking Waiver, Wal-Mart (SPR2004-03)

(Applicant: Massa Multimedia Architecture)

Ms. Buck explains that when you are facing the store, to the far left there are some pick-up parking spaces designated. Walmart first added pick-up spaces in 2017. They make the spaces wider to allow easier access to load groceries in the car which results in losing spaces. Ms. Buck states that we did not have parking regulations when Walmart was first constructed but the current regulations would require 1,044 spaces. They have 935 spaces on site. They are now adding additional pick-up spaces and a crosswalk from those spaces to the pickup point, and it results in the loss of one parking space. Ms. Buck recommends that the Board vote to reduce the parking by one space.

MOTION: Ms. Nist motions to approve the parking waiver request from Walmart for a reduction of one parking space.

SECOND: Ms. Souza

DISCUSSION: None

VOTE: all in favor

Town Planner Report

Ms. Buck states that we received Attorney General's Office approval of the two articles that were approved at the Fall Town Meeting, which were deleting the Phased Growth Zoning Bylaw and Temporary Moratorium on Commercial Ground-Mounted Solar Energy Systems. [October 22, 2019 Town Meeting, Articles 17 & 18].

Ms. Buck states that she has been working to get things in order before she is out for surgery. She states that we have a special permit hearing on February 18, 2020 for Hillcrest Water District for a smaller lot size for their water tank. She states that she has already written a draft decision. She noted that new site plan or special permit applications that come in at this point can be scheduled in March. March meeting dates will be on March 10th and 24th, with the potential for a special meeting on March 17th depending on the deadlines for zoning articles. Articles are due to the Select Board by March 21, 2020.

Board Updates:

Capital Improvement

Ms. Nist states that Capital Improvement met and that they have a lot of requests for things such as replacement of equipment. The new school depends on whether the Town receives the grant or not. She states they have another meeting next month.

Central Massachusetts Regional Planning Commission (CMRPC)

Ms. Souza mentioned the importance of the upcoming 2020 Census. She states that Edgar Luna had contacted her and had offered to give his presentation about the census to the Planning Board or any other Board that was interested. She states that since they do the census every ten years, those numbers will be used for funding for the next ten years. She states the college students should fill out census for the city or town in which they live more than 6 months of the year, so students who live on campus would complete census for the location of where their school is. Ms. Souza goes on to discuss how CMRPC has been using database planning and data to optimize projects such as school use. Ms. Souza mentioned the benefits of using digital maps and interactive maps versus paper maps and that they have been using more drones to do digital mapping. Municipalities can use Muni GIS mapping services.

MOTION: Ms. Nist moved to adjourn

SECOND: Ms. Souza

DISCUSSION: None

ALL IN FAVOR

Meeting adjourned at 8:10pm

Respectfully Submitted,

Maureen Schur, Department Assistant

Documents included in meeting packet:

- Agenda
- Memo from Town Planner dated 1/16/2020
- Memo from Kevin Quinn dated 1/16/2020, with attached site development budget
- Letter from Graz Engineering regarding Oak Bluff Lane lot releases dated 1/15/2020, with attachments
- Email from Mike Wilson L.F.D. regarding Oak Bluff Lane fire cistern dated 1/6/2020
- Draft Performance Security Agreement Oak Bluff Lane
- Draft Conditional Partial Release of Covenant Oak Bluff Lane
- Special Permit for Mulberry Solar 3 dated 9/11/2018
- Memo from Town Planner Michelle Buck to the Planning Board dated 1/20/2020 regarding Zoning Bylaw amendments
- Draft Amendments Adaptive Reuse Overlay District, dated 1/20/2020

Documents submitted at meeting:

- Proposed restoration plan/narrative CS Energy
- Restoration plan prepared by Todd P Morey Civil Engineer