

**Webster Planning Board
Meeting Minutes
July 22, 2019**

A meeting of the Webster Planning Board was held on Monday, July 22, 2019 in the Large Meeting Room of the Gladys E. Kelly Public Library at 2 Lake Street, Webster, MA.

Present: Chairman Paul LaFramboise, Vice Chairman Michael Dostoler, Members Cathy Cody, Tom Klebart, Dan Morin and Associate Member Christella Gonsorcik. Also present: Ann Morgan, Town Planner, and Kelly Gorham, Planning Department Clerk and Chuck Eaton, CME Associates.

1. **Call to Order:** Chairman LaFramboise called the meeting to order at 6:34 p.m.

2. **Action Items**

a. **Reorganization & Worcester District Registry of Deeds ANR Signature Form** – Reorganization is done annually and will take effect at the next meeting. Mr. Dostoler nominated Mr. LaFramboise to remain as Chairman, seconded by Ms. Cody. Motion passed unanimously, 5-0. Mr. LaFramboise nominated Mr. Dostoler to remain as Vice Chairman, seconded by Mr. Morin. Motion passed unanimously, 5-0. The members signed the Worcester District Registry of Deeds signature authorization form.

b. **Vote to appoint Planning Board delegates to Central Mass. Regional Planning Commission** – This is done annually. The Planning Board is allowed to appoint two delegates. The current Board delegates are Mr. Klebart and Ms. Cody.

Mr. LaFramboise motioned to nominate both Mr. Klebart and Ms. Cody for reappointment, seconded by Mr. Morin. Motion passed unanimously, 5-0.

c. **Approval of Meeting Minutes –April 29, 2019, May 20, 2019 and June 24, 2019**

Motion to approve the meeting minutes from April 24 as drafted made by Mr. Klebart, seconded by Ms. Cody. Motion passed unanimously, 5-0.

Motion to approve the meeting minutes from May 20, 2019 as drafted made by Ms. Cody, seconded by Mr. Klebart. Motion passed unanimously, 5-0.

The draft minutes from June 24, 2019 were tabled to the next meeting.

d. **Request for Determination of Minor Modification – Lake Pizza – 39 Thompson Road** – changes to the Site Plan approved on May 21, 2018 – The contractor, Mr. Richard Kelly was present to discuss the changes. Ms. Morgan provided the Board with an update. Mr. Kelly had submitted a drawing showing all the proposed modifications on July 22, 2019. He was asked to provide more labeling on the plan which he did and submitted at the meeting.

Mr. Kelley reviewed the proposed revisions to the approved site plan including changes in the parking layout, the size of outdoor patio, drainage, and changes to the approved landscaping plan. He stated that these changes should be considered minor. The Board noted that proposed modifications show that the curb cut on Thompson Road exceeds the Town regulations of 24 feet. Mr. Eaton reviewed the changes in the stormwater drainage system was sized to provide recharge based on Massachusetts stormwater standards. He noted that this is a redevelopment project which gives the Board some flexibility to allow less strict requirements. Mr. Eaton sent an email to the Board stating that the infiltration on the revised plan will only accommodate a quarter of the stormwater volume for the patio. Mr. Kelly stated that the pavers are more pervious then what was previously approved which will

create more direct infiltration through the patio thereby reducing the volume sent to the piped system. Mr. Eaton noted that an as-built plan will be required.

Ms. Cody asked if these proposed modifications could be considered minor. Several Board members noted that the proposed changes were significant and not compliant with the requirements of the Zoning By-law (Site Plan Review). Mr. LaFramboise added that he would rather see engineered plans showing all the proposed modifications. Mr. Kelley requested that the Board approve only the changes to the patio and its drainage system and that the rest of the approved site plan would be built in accordance with the original approval. The Board and Mr. Eaton discussed this option.

The Board agreed to the plan changes to the patio and stormwater only, with no other changes to the original approved site plan, with the specific patio dimension of 20' x 36'9". All other conditions in force and effect. Mr. LaFramboise stated that the design engineer Site Tec, Inc. or other engineering firm will be required to prepare the final as built plan. Ms. Morgan noted that the business owners need a permit from the Board of Selectmen to allow outdoor seating on the patio.

Motion to determine that the requested modification is minor and to approve said modification as follows:

1. reduction in size of the patio to 20 feet by 36 feet, 9 inches; and
2. change to the stormwater drainage system under the patio to a 4 inch pipe with a 70 foot length to be wrapped in pea stone measuring 2 feet by 3 feet; and
3. all other conditions of approval of the original site plan to remain in full force and effect

made by Mr. Dostoler, seconded by Mr. Klebart. Motion passed unanimously, 5-0.

- e. **Draft Decision – Solar Project – 0 & 153 Upper Gore Road – BWC Chamberlain Pond LLC c/o Blue Wave Solar – Applicant; Janet S. Konkel Revocable Living Trust, Janet S. Konkel Trustee (0 Upper Gore Road – Assessor ID 52-A-1) and Victor J. Stefaniak, Jr. (153 Upper Gore Road – Assessor ID 53-B-4) – Owners; Proposed 6 Megawatt-AC solar project on 133 acres off Upper Gore Road; both properties are zoned Agricultural Single Family Residential (ASFR) within the Lake Watershed Protection (LWP) district. Public Hearing closed on May 20, 2019.**

Ms. Morgan advised the Board that the decision has been sent to Town Counsel for review. It is a neutral decision which allows the Board to consider either approval or denial. She reviewed the structure of the draft and the voting process. Upon advice from Counsel, a roll call vote for individual findings won't be necessary but the Board must review each finding and contribute language. The final vote on a decision has to be a supermajority which requires 4 out of 5 votes to approve. The Board must also vote on the waiver request, which is also a supermajority vote, 4 out of 5. There are two options for the decision – denial or approval and findings should be referenced. Standard conditions are included if approved. Town Counsel will review the second and final draft. This needs to be filed with the Town Clerk no later than August 18, 2019. The Board will need to meet to review the decision. Ms. Morgan noted that discussion about the decision will be for Board members only as no further public input can be taken since the hearing was closed. The draft decision is posted online.

Motion to review the decision at a meeting to be held on July 29, 2019 at 6:45 p.m. with the location to be determined, made by Mr. Dostoler, seconded by Ms. Cody. Motion passed unanimously, 5-0.

3. Public Hearings

- c. **Definitive Subdivision Plan – 0 & 153 Upper Gore Road – Janet S. Konkel Revocable Living Trust, Janet S. Konkel Trustee (0 Upper Gore Road – Assessor IS 52-A-1) and Victor J. Stefaniak, Jr. (153 Upper Gore Road – Assessor ID 53-B-4) – Owners; Proposed four lot subdivision off Upper Gore Road; both properties are zoned Agricultural Single Family Residential (ASFR) within the Lake Watershed Protection (LWP) district.**

Attorney Tom Reidy, representing the Applicant, requested a continuance to the August 19, 2019.

Motion to continue the public hearing to August 19, 2019 made by Mr. Morin, seconded by Mr. Dostoler. Motion passed unanimously, 5-0.

- a. **Special Permit – Signage for existing restaurant – Tracy Lis d/b/a Waterfront Mary’s (Applicant/Owner) – 103 Birch Island Road, Assessor ID 56-B-33-0.**

Mr. Morgan gave the Board an overview based on the Zoning By-law. New signs were put up on the building and off site at the intersection of Birch Island Road and Thompson Road which triggered zoning violations. The two sided sign that are off-site are not permitted in accordance with the Zoning By-Law and are on Town owned land. The sign on the building is in violation as it is 80 square feet and 40 square feet is allowed by right. Anything exceeding 40 square feet requires a special permit. The business is in a residential neighborhood and commercial signage is not allowed. It is pre-existing. The sign on Town owned land would require approval from the Board of Selectmen. The fines for violations is currently up to \$900.00. It was noted that the business has, over the years, had signage on the building. The signage at the intersection of Thompson and Birch Island Road has also been in that location for a number of years in varying sizes.

Mr. Sullivan reviewed the Application. The business is a pre-existing non-conforming use but is grandfathered given the length of time at that location. He noted that the sign currently on the building is approximately eighty square feet in size. The signage on Thompson Road is six feet by 4 feet (twenty four square feet) and is double sided. Mr. Sullivan reviewed his client’s position regarding the pre-existing, non-conforming status of both requests. He noted that his client received the current signage for free from a beer vendor. Mr. Sullivan argued that the signs are grandfathered and should not require any permits from the Town. He further stated that he believed that this matter was not properly before the Board.

Ms. Morgan stated that the Zoning By-law requires a building permit whenever a sign changes in size. The current signage in both locations are new this year and larger in size than the previous years which requires a permit. The owner did not apply for the required permit. Ms. Morgan noted that the Planning Board can consider the facts and approve certain amount of square footage, and above and beyond which is the purpose of the Special Permit. Once the dimensions are approved, she can proceed with the building permit.

Ms. Morgan reviewed information received from the Highway Superintendent who had reviewed the location of the sign on Thompson Road. It was found it be located in the roadway layout which is Town owned property. In order to keep the sign in the location and remove it from Town owned land it would have to be moved 12 feet off the curb line of the road.

The Board discussed the existing conditions. Mr. LaFramboise noted that the sign on the building is a more like a banner and has no lighting. He noted that the current sign is definitely larger than what

on the building before. Regarding the sign on Thompson Road he noted that there has always been a sign on the corner as far as he can remember. Mr. Klebart agreed adding that previous signs in that location were smaller. Ms. Cody expressed concern that larger signs in that location may cause a distraction for drivers. Ms. Morgan stated that the Board does not have the authority to approve a sign location on Town owned land and that such permission must be reviewed and granted by the Board of Selectmen. Ms. Gonsorcik expressed concern about setting a precedent of allowing private, off site signage on Town owned land as others may seek the same opportunity. Mr. LaFramboise noted that the Selectmen can address the matter. Ms. Morgan stated that a memo would be sent to the Selectmen and the Town Administrator apprising them of the situation.

The Board discussed the size of all the proposed signage. It was agreed that the current, existing signs were larger in size than previous years but that signage should be allowed due to the fact that the business pre-dates the adoption of the current sign by-law. Mr. LaFramboise stated that a compromise would be reasonable in his opinion. The Board discussed various options for allowable square footage for each of the signs.

Motion to allow one sign not to exceed sixty (60) square feet to be installed on the existing building made by Mr. LaFramboise, seconded by Mr. Morin. Motion passed unanimously, 5-0.

Mr. Sullivan asked the Chairman if the hearing was officially opened since it was not stated as such at the beginning. Mr. LaFramboise apologized and stated that it was implied but that he would officially open it for the record at this time. He asked if anyone in the audience had any comments. One unidentified member of the audience said they liked the sign on Thompson Road. Several members of the Board stated that they had no problem with the location or with ongoing signage. No additional public comment was made.

Motion to approve one two-sided sign, each side not to exceed four feet by four feet in dimension (a total of 16 square feet) per side to be located on the southeast corner of Thompson Road and Birch Island Road made by Mr. Klebart, seconded by Ms. Cody. Motion passed unanimously 5-0.

Motion to approve the Special Permit with square footage voted upon made by Mr. Dostoler, seconded by Mr. Morin. Motion passed unanimously, 5-0.

Ms. Morgan stated that a written decision will be available for the Chairman's signature later in the week. A copy along with the "next steps" for filing at the Worcester District Registry of Deeds will be send to the Applicant. Mr. Sullivan requested a copy as well.

- b. Solar Project - 0 Juniper Lane - Juniper Lane Solar, LLC (Applicant); Kathryn Rose (0 Juniper Lane), Finamore Management Company (0 Harvard Street, 0 Klebart Avenue) - Owners. Proposed large scale ground mounted 10 megawatt solar project on 60 acres off Juniper Lane. Project area will consist of 19 acres spanning three parcels zoned Agricultural Single Family Residential (ASFR) or Conservation District (CD). (Continued from 6/24/19)**

Mr. Evan Turner was present to discuss the application with the Board. Ms. Morgan provided the Board with a review. The Board had requested comments from the Fire Department at the last meeting regarding a wildlife corridor at the narrow point of the project site. The Fire Chief reviewed the plans and was concerned with having 3 lock boxes on the access road as it would slow down response time to the southern portion of the site.

Mr. Eaton provided a final engineering review. No further comments were made regarding stormwater. He recommended erosion control measures, an operations and maintenance plan and a certified as-built as part of conditions of approval.

Ms. Morgan noted that if the Board wants to require a wildlife corridor then the plans should be revised prior to the close of the public hearing. Mr. Turner stated that he would prefer not to have a wildlife corridor. He noted that he had no further comments and would like to close the hearing. Mr. LaFramboise asked if there were any further comments.

Alicia Zukowski, 5 Cranberry Road, asked about the solar panel specifications on plan sheet C-5.4. She noted that this was a new plan sheet. The detail shows a new panel with a potential height of twenty feet. This type of panel moves to track the sun. She noted that the original panel height was seven feet – the new panel now increases the potential height by an additional thirteen feet. Ms. Zukowski reviewed the topography of the area showing visual and glare impacts on the area residents with the new panels. She raised concerns about light reflection from the new panels into surrounding homes. She added that the original panels were installed into the ground with posts which were reviewed by, and are supported by, the Conservation Commission. The new panel types may require concrete pads which may require revised stormwater calculations. Mr. Turner stated the new detail sheet shows the newest technology of panels that can rotate to follow the sun instead of the fixed panels originally proposed. He noted that the new technology could enable him to put fewer panels on the site. He added that most bylaws have a height restriction of 15 feet maximum. The Board can decide to not use dual access panels. They were included in the plan set as an option. Ms. Morgan recommended not closing the hearing if more information would be needed for the tracking panels. Mr. Turner withdrew the option for dual-access tracking panels. The final megawatts on the final plan set is 8 and a “not to exceed” wattage must be established in the decision.

Eleanor Doros, 10 Juniper Lane, asked the Board to consider the animals and make sure they have safe passage through the area. It was noted that the site fencing is about 6 inches off the ground and is low enough for deer to jump over. Mr. Turner has references from other projects that he will send to the Planning Department.

Ms. Zukowski stated that she had asked for a list of references and/or projects that Mr. Turner has been a party to. Mr. Turner stated that he sent that to the Planning Department. Ms. Morgan stated that it had not been received. Mr. Turner said he would resend it. Ms. Zukowski further added that some of the panels were removed from the buffer area based on the review by the Conservation Commission. She stated that area should be left wooded and that there are better sites suited to a large solar project.

Motion to close the public hearing, with the allowance of the submission of the references, made by Mr. Klebart, seconded by Mr. Dostoler. Motion passed unanimously 5-0.

Motion to close public hearing made by Mr. Klebart, seconded by Mr. Morin. Motion passed unanimously 5-0.

Motion to direct staff to draft a neutral decision for the Planning Board to review made by Mr. Morin, seconded by Ms. Gonsorcik. Motion passed unanimously 5-0.

4. Discussion Items

- a. Dunkin' Donuts – 2 locations – 128 Main Street, 170 Thompson Road (Webster Crossing)

Michelle Maria of Karlee Management was present to discuss both projects.

128 Main Street – Ms. Morgan noted that Ms. Maria had submitted an as-built plan for the Board's consideration. This was different than the previously submitted as built plan which was prepared by a

different engineer. She stated that it was reviewed by the Building Inspector who wants to see the bollard detail put on the plan. Mr. Eaton explained that the detail must represent what was installed.

170 Thompson Road (Webster Crossing) – Mr. Eaton reviewed the status of the as-built plan noting that he and Ms. Maria have been working to get the outstanding items completed. Ms. Maria submitted a copy of the stormwater operations and maintenance plan which has been filed with the Worcester District Registry of Deeds. She also submitted a letter from her architect verifying the use of the second floor. A second floor egress and stairs have been installed. A cedar picket fence was approved but a concrete enclosure with chain link was built. The Board agreed that the enclosure is sufficient. The as-built plan does not reflect what type of stormwater system was installed. Ms. Maria stated that there is concrete over the chambers so it is difficult to see what was installed. More information needs to be provided regarding material and the inverts. Mr. Eaton stated that he will contact the surveyor to help get this item completed. This item was tabled to the next meeting.

5. Any items which may lawfully come before the Board – None.

6. Adjournment

Motion to adjourn made by Mr. Klebart, seconded by Mr. Morin. Motion passed unanimously, 5 - 0. The meeting was adjourned at 8:55 p.m.

Minutes Approved:


Chairman Paul LaFramboise

Date:

8/19/19

EXHIBITS

- Action Item 2D - Request for Determination of Minor Modification – Lake Pizza – 39 Thompson Road changes to the site plan approved on May 21, 2018. All materials associated with this application are on file in the Planning Department.
- Action Item 2E: Draft Decision - Solar Project - 0 & 153 Upper Gore Road - BWC Chamberlain Pond LLC c/o BlueWave Solar – Applicant. All materials associated with this application are on file in the office of the Town Clerk and the Planning Department.
- Public Hearing 3C: Definitive Subdivision Plan – 0 & 153 Upper Gore Road – Janet S. Konkel Revocable Living Trust, Janet S. Konkel Trustee (0 Upper Gore Road – Assessor IS 52-A-1) and Victor J. Stefaniak, Jr. (153 Upper Gore Road – Assessor ID 53-B-4) – Owners. All materials associated with this application are on file in the office of the Town Clerk and the Planning Department.
- Public Hearing 3A: Special Permit – Signage for existing restaurant – Tracy Lis d/b/a Waterfront Mary’s Bar and Grill (Applicant/Owner) – 103 Birch Island Road. All material associated with this application are on file in the office of the Town Clerk and the Planning Department.
- Public Hearing 3B: Solar Project - 0 Juniper Lane - Juniper Lane Solar, LLC (Applicant). All materials associated with this application are on file in the office of the Town Clerk and the Planning Department.