

**Webster Planning Board
Meeting Minutes
May 22, 2023**

A meeting of the Webster Planning Board was held on Monday, May 22, 2022 in the Board of Selectmen Meeting Room, 2nd Floor, Webster Town Hall, 350 Main Street, Webster, MA.

Present: Chairman Paul LaFramboise, Vice Chairman Michael Dostoler, Clerk Dan Morin, Member Jason Piader and Associate Member Caroline Fritz.

Absent: Member Cathy Cody.

Also present: Ann Morgan, Director of Planning & Economic Development; Chuck Eaton, CHA Companies

1. Call to Order: Chairman LaFramboise called the meeting to order at 6:37 p.m. He noted that the meeting was being recorded.

2. Action Items

- a. Reorganization and Elect CMRPC Delegates – Ms. Morgan noted that this item could not be acted upon until after the Selectmen make their reappointments after June 30, 2023. This item was tabled.
- b. Annual Worcester District Registry of Deeds Signature Form - Ms. Morgan noted that this item could not be acted upon until after the Selectmen make their reappointments after June 30, 2023. This item was tabled.
- c. Draft Meeting Minutes – Tabled to next meeting.
- d. Approval Not Required Under Subdivision Law (ANR) Plan – 159 Gore Road – James Fisher (Applicant / Owner) – Ms. Morgan noted that the plan meets all the requirements. Mr. LaFramboise asked if there were any questions from the Board. There were none.

Motion to endorse the plan and authorize staff to sign it made by Mr. Dostoler, seconded by Mr. Morin. Motion passed unanimously 4-0.

3. Public Meetings

- a. Stormwater Permit Application — Substation Site Improvements — 52 Worcester Road — New England Power Company (Applicant Owner); Assessor ID 87-A-2-0; site is located in an Industrial (I) zoning district.

Matt Stefan from the BSC Group was present to discuss the application on behalf of the applicant, New England Power. He reviewed the history of the site which houses a substation on 52 Worcester Road. There is an existing retaining wall in the back where there is some significant slope which contributes to stormwater. During rain events, stormwater collects at the top of the wall and quickly overtops it into the substation resulting in erosion issues. This raises concerns about undermining the large transmission line structures. BSC was retained to design stormwater improvements to mitigate the problem. The original design was under the 10,000 square foot

threshold for the stormwater permit application. The outlet for the system ran through the substation and had a small catch basin that would allow overflow water to leak out of the system. Once construction began they encountered a number of buried utilities which made it impossible to use the gravity system through the substation to daylight. The new design brings the outlet into the neighbor's driveway and then down to another catch basin. The design functions in the same way but now goes through the new system. This work exceeded the 10,000 square foot threshold. He reviewed the elements of the design including a new retaining wall to replace the old one, a large underground infiltration system, and at the toe of the wall a secondary smaller system. The idea is to collect all the water runoff from the hill as well as a portion of the neighboring property that currently discharges to that same location which will hold most of the stormwater. Water will bubble out of the pipe during large storm events and will flow north into an existing grass drainage swale in front of the neighboring property.

Mr. LaFramboise noted that the water would flow north along Route 12 and asked who was going to maintain the swale. Mr. Stefan stated that the swale was on the adjacent property and that property owner would be maintaining it. Mr. LaFramboise stated that it would be an issue.

Mr. Eaton reviewed his engineering comments which included adding a silt fence north of the site and provision of a long term operation and maintenance plan which would have to be added to the deed of the property. He added that the plans show two different types of overflow structures which should be resolved. Mr. Stefan noted that they had received those comments and expect to reply soon.

Mr. LaFramboise asked staff if there were any recommendations since the stormwater would be flowing onto a neighboring property. Ms. Morgan stated that there should be an agreement between the two property owners to document maintenance of the swale. She noted that she had spoken with Bryan Wentworth who is the engineer that she has been talking to. He asked about the operations and maintenance plan being connected to the deed. She noted that this was a best practice used in the past and that it would be at the Board's discretion. If, in the future, New England Power sold the property, the next owner would then be made aware through the deed that there is a maintenance plan. The Board should have an agreement between the property owners outlining the maintenance of the swale.

Mr. LaFramboise asked if there was a discussion item relating to 56 Worcester Road to which the answer was yes but that the situation there was similar but with other circumstances. Mr. LaFramboise stated he thought it would be helpful to hear that now to help the Board understand what he was talking about. Ms. Morgan noted that she had told Mr. Wentworth that the application for 52 Worcester Road can proceed despite what was happening now at 56 Worcester Road. She displayed some pictures on the screen for all to see and reviewed them. The pictures were taken in early May. She has been in touch with the property owner, they have responded. Right now it's unclear as to what is going to happen to all the disturbed area. The property owner is going to work with staff and the Planning Board to get the necessary Stormwater Permit that they are required to have but did not get before site work began. She reviewed the fill and the existing swale. Mr. LaFramboise asked if they had filled the area and if the stormwater was being directed to the swale shown on the picture to which the answer was yes. Mr. LaFramboise noted that the area where the water is directed to is narrow which is a concern. This is why he believes that it's

important the property owners provide a management agreement and easement. He noted that having that easement in place prior to a decision would be best.

Mr. LaFramboise asked if the Board had any other questions. There were none. He told Mr. Stefan that he should address comments made by Mr. Eaton and to work with the neighboring property owner on producing an easement / maintenance agreement. Mr. Stefan stated that he was aware that an agreement / easement was in the works with regards to the pipe and catch basin as well and felt that his clients would be amenable to the Board's request. Mr. Dostoler asked for clarification on the location of the swale and Mr. LaFramboise reviewed it.

Mr. LaFramboise asked if this should be continued to the next meeting. Mr. Morgan stated yes and that depending on how quickly the applicant is able to respond to comments and the request for an easement / maintenance agreement that a draft decision could be in hand for the next meeting. This permit is different than special permits and site plans because it is regulated by the construct of the Stormwater By-law which allows for some flexibility. She added that, to close the loop on the subject, staff is meeting with the property owner of 56 Worcester Road, their lawyer and National Grid to discuss the outstanding issues and resolve and to ensure that National Grid is responsible for maintaining the swale. There were no other comments.

Motion to continue the matter to June 26, 2023 made by Mr. Dostoler, seconded by Mr. Morin. Motion passed unanimously 4-0.

- c. Modification of a Site Plan - Construction of a New Garage - Commercial Parking - 114 Point Breeze Road - Assessor ID 46-A-9; Berthiaume Contracting Corp. (Applicant) - WEF, Inc. (Owner); Site is located in both a Lake Residential (LR) and Lake Watershed Protection (LWP) zoning district. Continued from 4/24/23.

Mr. LaFramboise took the agenda item out of order. He has spoken with the owner who is requesting a continuance to the next meeting so that he can get his application into the Zoning Board of Appeals. Ms. Morgan noted that the ZBA process can take about three months. Mr. LaFramboise stated that they could continue to the next meeting and then figure out where to go from there. He asked the owner if that was okay with them to which the answer was yes.

Motion to continue the public meeting to June 26, 2023 made by Mr. Morin, seconded by Mr. Dostoler. Motion passed unanimously 4-0.

- b. Modification of a Site Plan - Sales and Commercial Parking - 300 Thompson Road - Three Hundred LLC (Applicant Owner); Assessor ID 34-A-6-0; Site is located in both a Business 5 (B5) zoning district. Continued from 4/24/23.

Ms. Morgan provided an update. Board members had scheduled individual appointments to meet with the property owner in 15-minute increments. They went individually which did not require posting of a public meeting notice. This public meeting had been continued for the purposes of allowing Board members to view the site. Since the site visits there has been a new submission: Mr. Adamopoulos' response to Attorney Kiritsy. There are no new engineering review comments. She displayed the most current site plan on the screen.

Mr. LaFramboise asked the Board how they wanted to proceed and if there were any further questions from the Board. Mr. Piader noted that he had walked the entire property with the owner and looked at the shrubs along the property line abutting residential properties such as 306 Thompson Road. He reviewed some of the criteria for approving site plans such as reducing nuisances such as noise, odor and unsightliness. He's of the opinion that there should be screening such as shrubs along the property lines that abut residential properties and in particular the complainants. He noted that they went there in the spring when foliage was out but that there would be more transparency in the winter. The owner did buy the property and it was zoned commercial and the Town sent a message at spring Town Meeting that they still want it to be zoned commercial. Fast growing bushes to create a barrier would be good. Ms. Fritz noted that the owner explained that she had planted arbor vitae on the abutting residential property to the right as you enter the site. Mr. LaFramboise noted that Mr. Piader is suggesting that a second row of plantings be installed on the property owner's land to create a further buffer which he believed was amenable to the property owner. Mr. Dostoler stated that he, too, toured the site. With the foliage out, it appeared that the site was visible from the second story of the abutting property. In the fall and winter there would be limited activity in that people would be storing their boats. Mr. Piader stated that it would be good to have a planted barrier on the site and not on the abutting property. He reviewed what he believed would be the types of vehicles entering the site. Mr. Dostoler noted that the property owner appears to be amenable to coming up with a solution.

Attorney Adamopoulos, representing the property owner, noted that there has been some discussion about increasing the existing 6-foot-high fence to a 12 foot high fence and then put some sort of covering over the existing fence in other locations. This was discussed and forwarded to Attorney Kiritsy. He noted that the existing shrubbery on the abutting property was placed there by Mr. Duquette. He agreed that a barrier was appropriate and he would discuss the options with his client. Mr. Piader stated that if both parties agree to a barrier then he's in support of it as well considering that there's been some animosity between the two parties. Mr. Adamopoulos noted that they would work with Attorney Kiritsy and that they are waiting for feedback. He said that he would take the Board's recommendation back to his client. Mr. LaFramboise pointed out that it was not a recommendation but would be considered as part of the approval process by the Board.

Ms. Morgan reviewed the areas of the site plan that would require a buffer. The site plan should address buffering that is on the site, not the adjacent property. Mr. LaFramboise suggested that they raise the fence and provided additional plantings that will grow. Mr. Piader noted that the other location for suggested buffer once had plantings installed along their property line by the owners but that they were removed by the abutter who didn't like them and preferred to see the boats instead. Ms. Morgan noted that the abutter has since added a fire pit and landscaping to provide visual buffering for the fire pit. It doesn't cover the whole fence line. That property owner has not raised any concerns during this process but if the Board feels it's prudent for the future then a condition for buffering in that area can be included. Mr. Dostoler and Mr. Piader were both told by the owner that the abutter didn't want the buffer plantings.

Mr. Fritz asked if the chain link fence goes all the way around the site to which the answer was yes. She asked if material can be woven into it to provide further visual blocking. Trees are good but they might die. Mr. Adamopoulos noted that a covering or other material on the fence was also under consideration. Ms. Morgan noted that while the abutting property owners were

discussing options that it was ultimately the Board's decision to determine what types of conditions would be required for visual buffering. Ms. Fritz noted that the types of buffer would be the responsibility of the property owner and that it wasn't for each abutting property owner to decide what they want. Mr. Piader stated that bushes should be planted along the property line that abuts at least at 298 Thompson Road. Mr. LaFramboise asked about the setback of the buffer and what could be considered satisfactory. Ms. Fritz expressed concern about the possibility that trees could die and the problem would persist. To her, a fence with privacy material woven through would be a blockade that you can't see through. Mr. Adamopoulos agreed with regards to the abutter on the right hand side and the plan would be to increase the height of the fence. Ms. Morgan noted that whatever is decided upon with regards to visual screening that the property owner will be responsible for maintenance. If trees are required and they die then the owner would be responsible for replacing them in kind. The same for privacy slats which don't always hold up as well. Whatever is chosen, there will be a maintenance clause included. Mr. Piader noted that there are examples along the Lake where some of the trees get very large and provide visual screening. Ms. Fritz agreed but wanted to make sure there was a maintenance options. Mr. LaFramboise stated that he believes that the applicant is open to whatever solution the Board proposes. He added that the Board has options when considering a buffer solution.

Mr. LaFramboise asked if there were any comments from the audience. Karen Bartholomew, 30 Point Pleasant Road, asked if a State access permit from MassDOT has been received noting that 193 was a state road which requires a permit. The amount of traffic entering and exiting the site onto Thompson Road would have impacts to the traffic patterns. She cited as an example the difficulty of the sight lines at the intersection of Point Pleasant Road and Thompson Road where pulling onto Thompson Road was extremely difficult given the poor sight lines in either direction. She asked if a traffic study had been completed. She expressed concerns about safety on Thompson Road. Mr. Balcewicz reviewed the sight lines where the site entrance meets Thompson Road noting that the sight triangle shows a clear sight line of 250 feet to the left and 390 feet to the right at the intersection of Thompson Road and the site. He noted that this was sufficient from 14 feet off the traveled way at 4.5 feet high. The plan shows the topography.

Kristin Valeri, 298 Thompson Road, asked the Board if they required a State access permit. Mr. LaFramboise noted that MassDOT permits were not under the purview of the Planning Board. Ms. Valeri referenced correspondence submitted by Attorney George Kiritsy and reviewed key points from that letter which she stated were valid, based on fact and contains information relating to by-laws. Sales were not allowed in 2014 and she appeared before the Board in 2022 to discuss that fact which was confirmed by the Board and staff and confirmed by the ZBA. The applicant has been in violation as of a few months ago. She asked what the required frontage was for putting a building on this property to which the answer was 50 feet. It was noted that the site frontage is 43 feet. Ms. Valeri wanted to know how the inadequate frontage could be allowed to put a building on the site. Mr. LaFramboise stated that there was additional site access to which Ms. Valeri responded that it was access to other properties and can't be considered frontage. It was noted that the existing frontage was approved as part of the 2014 site plan, that issue should have been addressed at that time, and that the application before the Board was for a modification of the existing site. Ms. Valeri wanted to know what the process was for overcoming 43 feet. Mr. LaFramboise stated that the issue of frontage was not part of the current application and wanted to know if she had any other questions. Ms. Valeri asked about the shed and if it had a building

permit. Mr. LaFramboise noted that this was an amendment to the existing site plan. It was noted that sheds under 120 square feet do not require a permit. Any required building permits would be required after approval of the modification. Ms. Valeri wanted to know what triggers a stormwater permit. She asked why there was no Stormwater Permit. Ms. Morgan stated that she didn't believe that the Stormwater By-law was in effect at the time that the original site plan was approved in 2014. Mr. Piader noted that the frontage issue should have been addressed through the appeal process set forth by Mass General Law 40A Section 17 which addresses the appeal process which by now the appeal period has already expired. The approved site plan from 2014 stands with the 43 feet of frontage because the appeal period has expired. She wanted to know when the 50 feet of frontage requirement went into effect and that there was never a process to overcome that. Ms. Valeri stated her belief that the proper process was not followed in 2014. She went on to comment about screening noting that the attorneys have agreed to a 12 foot cedar privacy fence along the property lines. She wanted to see that written into the conditions for site plan approval. She noted that chain link fences with privacy slats do not last and must be maintained. She expressed concerns about future enforcement of any conditions given past history. The existing screening provided does nothing in the winter - the foliage falls off, the boats are out there in the winter. There needs to be a more permanent solution that is not unsightly which can be upkept on a regular basis and is proposing a 12 foot cedar fence. Mr. LaFramboise asked if her attorney had responded to which she said that they were proposing that. Ms. Morgan noted that she believed that there was a height limit on fences. Anything over a certain height is considered a spite fence. She thought it was 8 feet, possible 10 feet. Mr. Piader thought anything over 6 feet was a spite fence. Ms. Valeri had no further comments.

Motion to close the public meeting made by Mr. Piader, seconded by Mr. Morin. Motion passed unanimously 4-0.

The Board discussed the next steps with regards to drafting a decision. Ms. Morgan noted that she could prepare a general draft that the Board could consider each condition as needed. Ms. Fritz asked about a proposed fence. Ms. Morgan stated that she would check with the Building Commissioner about the maximum allowed height for a fence by law. She noted that Mr. LaFramboise and Ms. Cody would need to watch past videos to make them eligible to vote and to meet quorum requirements. Other conditions would be addressed such signage, hours of operations, etc.

Motion to direct staff to draft a decision made by Mr. Dostoler, seconded by Mr. Morin. Motion passed unanimously 4-0

4. Discussion Items

- b. Odor Mitigation Update – Marijuana Cultivation Facility – 30 Worcester Road – Curaleaf. Attorney Nick Adamopoulos was present representing Curaleaf. Ms. Morgan showed the updates posted to the website noting that the State looks at them along with others. She displayed the most recent update included the requested photos of the equipment being used to measure odor. She noted that she spoke with the contractor hired to replace the roof which did not require a modification of the special permit as it is a building repair. The contractor was told that they would need to discuss the repairs with the Conservation Commission with regards to their staging

area given the proximity to the wetlands. The contractor has applied for a building permit which is under staff review.

Mr. Adamopoulos noted that his clients have purchased 10 odor measuring units to be placed in various locations. He added that they would be taking readings prior to the roof repairs and after it's completed to get a comparison. There was discussion about how to determine acceptable levels and how to compare readings. He added that he would provide the Board with the locations of the units. Mr. LaFramboise asked if any baseline information was available to which the answer was no because the equipment just arrived. They are setting them up now and will be working through construction so that they can determine a baseline. Mr. LaFramboise asked if there was any information or research on what is considered an acceptable level of odor. Mr. Adamopoulos noted that they are working with the company who makes the units to make that determination as the company works with cultivation sites across the country and may have internal data. He said that the units measure by day which is good. Mr. LaFramboise noted that the Board would really like to see the baseline information so that we can get the information up on the website for everyone, including DEP, to see. Mr. Adamopoulos stated that he would get that information to the Board and that by July there should be more information to present.


- a. Engineering Update - CHA Companies – Mr. Eaton stated that he didn't have anything at this time but would be happy to answer any questions. Mr. Dostoler noted that he has observed construction at 13-15 Old Worcester Road and that a building is under construction. Mr. Eaton noted that a foundation has gone in. Mr. Dostoler noted that building has gone up. Mr. LaFramboise noted that the Building Commissioner had issued a permit which means they met all the requirements but that they were not off the hook for inspections and drainage required by the Board. As far as he knew, no inspections have been conducted but that the as-built plan submission will address these and other issues. Ms. Morgan suggested that this item be put on the next agenda as a discussion item. The property owner should be present for that discussion. She will contact the property owner so that he can be present and the Board can determine how to proceed. Missing inspections is not good. Mr. LaFramboise said it didn't make any sense that the owner, being in the excavation business, wouldn't comply with the required inspections.
- c. 56 Worcester Road — Violation — Clearing exceeding 10,000 square feet – discussed earlier in the meeting.

5. Next Meeting Date - Monday, June 26, 2023.

6. Adjournment

Mr. LaFramboise asked if there were any additional questions. There were none. Motion to adjourn the meeting made by Mr. Dostoler, seconded by Mr. Morin. Motion passed unanimously 4-0. The meeting was adjourned at 7:29 p.m.

Minutes Approved:


Daniel Morin, Clerk

EXHIBITS

Stormwater Permit – 52 Worcester Road

- Application and Project Narrative submitted by BSC Group stamped received May 1, 2023; includes the following documents:
 - Attachment C - Watershed Maps and Hydrologic Computations 104 pages.
 - Plan Set; prepared by BSC Group; 111 pages.
- Town of Webster Zoning Board of Appeals Public Meeting Notice; stamped by Town Clerk on May 15, 2023; 1 page.
- Correspondence; Comments submitted by the Town of Webster Building Department; dated May 15, 2023; 1 page.
- Correspondence; Comments submitted by the Town of Webster Health Department; dated May 15, 2023; 1 page.
- Correspondence; Comments submitted by the Town of Webster Administrator dated May 15, 2023; 1 page.
- Correspondence; Comments submitted by the Town of Webster Assessor; dated May 15, 2023; 1 page.
- Correspondence; Comments submitted by the Town of Webster Fire Department; dated May 16, 2023; 1 page.
- Correspondence; Comments submitted by the Town of Webster Water and Sewer Department; dated May 16, 2023; 1 page.
- Engineering Review prepared by CHA; dated May 19, 2023, 2 pages.

Modification of a Site Plan - Sales and Commercial Parking - 300 Thompson Road

- Correspondence; Response to Comments – Adamopoulos; dated May 19, 2023, 3 pages.

Modification of a Site Plan - Construction of a New Garage - Commercial Parking - 114 Point Breeze Road

- Response to Existing Grade, Inc. Comments; dated April 29, 2023, 3 pages.
- Revised Site Plan, prepared by Berthiaume Contracting; dated April 29, 2023, 3 pages.
- Engineering Review prepared by CHA; dated May 10, 2023, 4 pages.
- Revised Plan Set, prepared by Berthiaume Contracting; dated May 22, 2023, 3 pages.
- Engineering Review by CHA, dated May 22, 2023, 4 pages.
- Comments – Bartholomew; dated May 22, 2023, 1 page.