

MINUTES OF THE PROCEEDINGS OF THE  
PLANNING BOARD OF THE TOWN OF LANCASTER  
Meeting conducted via ZOOM internet conferencing  
Wednesday November 25, 2020

Present: Russ Williston, Chair; Roy Mirabito, Vice Chair, Carol Jackson, Clerk; Tom Christopher;  
Jeanne Rich

Absent: None

Staff Present: Debra Dennis, Administrative Assistant

List of Documents:

- Notice of Public Hearing - 412 South Meadow Rd, and photos
- Zero Point Solar Stop Work Order
- Poras Realty Trust and Wienerwald II Realty Trust Flexible Development Special Permit Approval 1/11/16
- Draft letter RE: Poras Special Permit
- Scenic Roads By-Law- response from Attorney General's office for Articles 12 and 13
- Haley and Ward 679 George Hill Rd Preliminary Subdivision Plan

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Chair Russ Williston called the meeting to order at 7:00 PM.

Russ Williston informed all present of new guidelines and recommendations attached to the end of the agenda.

**Public Hearing**

1. 412 South Meadow Rd- petition concerning the removal of an Oak tree that is 50+ feet tall.

Russ Williston read the hearing notice.

Ethan Barlow- present for applicant

Tom Christopher stated the tree is in serious decline.

Roy Mirabito mentioned the tree is in the right of way.

Greg Jackson- is there a plan to replace the tree.

Tom Christopher- if the tree is replaced, would they need a town approval.

Jeanne Rich stated the town would need to replace the tree since it is in the right of way.

Tom Christopher made a motion to close the public hearing

Carol Jackson seconded

Roll call vote 5-0

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich yea, Russ Williston yea

Jeanne Rich moved that we approve the removal of the oak tree, and notify the Tree Warden to go ahead and remove the tree due to its diseased condition

Tom Christopher seconded

Roll call vote 5-0

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich yea, Russ Williston yea

### **Public Meeting**

1. Review correspondence from Conservation Commission about stormwater issues at Zero Point solar array on Old Union Turnpike. Take action on issuing a stop work order if appropriate.

Tom Christopher stated the work is almost completed at the solar fields. Storm event on 11/16 you can see the silt from the solar field into the water way into Whites Pond. 11/23 a more substantial storm, he checked the site. It was in typical disarray. No siltation went into the brook. They took the south D basin, pumping all the water out of the south D basin, into the drainage swale into the north D basin. Second pump was set up in the north D basin to pump the water out into another wetland without it going into the pond, which is a violation of the Wetlands Protection Act. Also what is going on is a local farmer dredged an irrigation canal and his farm pond which leads into Whites Pond. The farmer set up dikes to prevent siltation going into Whites Pond. He is allowed to do this per the Wetlands Protection Act section 10 04 B 7. Some discharge from the farmer, but since his project has been completed. A video by the solar folks showed some silt from the farmer which was not coffee colored, different from what was discharged from the solar fields, more like muck. Later today he got a copy of the same video, but was edited. 5 enforcement orders from the Conservation Commission, one stop work order from the Planning Board, what they thought would work, did not work. They should appear with a plan to clear this up. Up to Zero Point to present the plan to the Conservation Commission. Request the Planning Board to issue a cease and desist order through the Building Inspector. Till such time they come with a plan that would resolve the pollution and siltation going into Whites Pond. They are very close to project completion. The town will be burdened with this if this is not cleared up before the completion of this project.

Carol Jackson- we should make sure the fix will work before we allow them to complete their project.

Tom Christopher- start with the stop work.

Jeanne Rich- did they stop with previous stop work orders?

Tom Christopher stated they did with the Planning Board stop work order.

Jeanne Rich- if we issue the stop work order- do you think they will ignore the stop work order?

Tom Christopher stated they need to come to the Conservation Commission with a plan.

They need to sit down collectively to come up with this plan.

Jeanne Rich- a camera was supposed to be used to find out what the problem was- did they do this? Tom stated they did not.

Roy Mirabito- seemed the resolution was that they would dig up the agricultural pipe and reestablish the pond that was on the property. Tom stated the connection of that site to Whites Pond has to stop.

Roy Mirabito- Is the hydroseeding and the amount of grass they planted a contributor to the problem? Lack of stability of the slope. Tom Christopher stated the soil type is one of the major contributors of the problem.

Tom Christopher made a motion that the Planning Board issue a stop work cease and desist order to Zero Point Solar, and until such time they can work cooperatively and submit a plan to the ConCom with a notice of intent that will bring these siltation problems to a halt.

Jeanne Rich Seconded with a friendly amendment- storm water permit- stormwater standard they are in violation

Amend that they also have to bring the project up to stormwater standards that they were approved under

Carol Jackson stated the motion was just until they come up with an NOI- it is not making them fix before they start work again.

Tom stated they need something definitive to bring to the Conservation Commission.

Carol Jackson- they need to fix before they can proceed with work.

Tom Christopher - plan with a complete resolution.

Jeanne Rich - need to tie into stormwater permit

Don Chaisson- stop work pending compliance with the stormwater regs and plan submitted is great. Tom's motion if we are requiring a NOI, an order of conditions for oversight of corrective measures and to fix the damage that has been done will then be issued, and compliance with the Planning Board would help. Consider a cease and desist that is based on the NOI

requirement of the Conservation Commission, and compliance with what they agreed with the Planning Board, and what they submitted to the Planning board. This may protect the town and the residents.

Greg Jackson- town engineer made recommendations- will these recommendations be a part of this order?

Tom Christopher stated those recommendations were not fulfilled to the extent that they were originally intended.

Roll call vote 5-0

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich yea, Russ Williston yea

2. Continued from the previous meeting: Review proposals for changes to the new Scenic Road Bylaw and review the new application.

Russ Williston stated that Orlando Pacheco said the BOS requested full review of by-law from town council, he will let us know when it is done.

Jeanne Rich - the Scenic Roads By-Law stated the Planning Board must enact rules and they must come up with an application. that once we have an application and how we will operate, then we will vote on it. Hold off until we hear from town council.

Carol Jackson- the checklist on the application doesn't match the List on the Scenic Roads By-Law, 157-8 requirements.

The state roads, there are no state roads entirely in one town or city.

3. Review Haley and Ward's review of updated Map 32 -Lot 1 (F/K/A 679 George Hill Road) applicant Brahmananda Saraswati Foundation -Preliminary Subdivision plan approved on 11/9/2020.(The preliminary subdivision plan was approved at the board's 11/9 meeting, conditioned on Haley and Ward's review.)Act regarding the approval of the Preliminary Subdivision Plan if necessary.

Carol Jackson- stated the review from Haley and Ward did not mention anything about the reduced frontage, the open space, wells that look like they are downgrade from septic. What should be on a peer review??

Russ stated on a preliminary plan does have all these requirements as a definitive plan.

Carol Jackson stated they don't have easements on the plans, and stated she mentioned this in just about all the meetings, and the peer review did not state this, also the application letter

that has the list on the lot summary table, the frontage does not match with what is on the plan. This is a concern.

Russ Williston offered to have peer reviews on another agenda.

4. Review issues with compliance to condition 5 of Flexible Development Special Permit issued to Poras Realty Trust and Weinerwald II Realty Trust on January 11, 2016. Approve proposed letter regarding enforcement.

Russ Williston read a letter he proposes to send to the Town Administrator cc BOS, and Building Inspector.

Jeanne Rich asked Russ Williston if he filed a disclosure with the Town Clerk and the State Ethics Commission that you can participate as a Planning Board member since you established yourself as a party of interest back in April.

Russ Williston stated he did.

Jeanne Rich- stated town council stated the PB did not do anything wrong in this decision and the pump station could remain. Town council agreed with the Board of Appeals. Who is complaining now.

Russ Williston- BOA was a specific complaint. It did not state the pump house could remain where it is.

Jeanne Rich- who brought this to the PB attention?

Russ Williston- would rather not disclose that information

Jeanne Rich-stated nothing but a head hunt, made a motion we do not send this letter, and that we abide by town councils' opinion, and we let this go, and move on.

Russ Williston- in regards to your comment, it was completely inappropriate and regards to your motion, you cannot make a motion to not do something.

Roy Mirabito- took an oath to uphold Lancasters by-laws. It is obvious this building violates Lancaster's by-laws and the states. There has been no control of this open space. There was a four wheeler and a dirt bike, running up to the Hawthorne development. They should not be riding in the open space. Would like to request if town council is involved again, we get the written questions to town council, and written answers from them.

Carol Jackson - strongly agrees with Roy. With emphasis on getting town councils answers in writing.

Roy Mirabito- asked Tom Christopher his opinion

Tom Christopher- has been fighting the ATV and dirt bike issue for a long time. The more we dig into the pump house issue the more contentious. All this is about a building put in open space, and the Planning Board made a mistake. Learn from your mistakes. Still searching for a method of resolution that is less contentious, without moving the pumphouse.

Roy disagrees- why have by-laws if we do not enforce them? What value are they if we do not enforce them. We are inviting abuse in the future if we just move on.

Tom Christopher stated the Planning Board made the mistake. How do we resolve this. Does the town spend the money to fix, or do we punish the developer?

Roy Mirabito- when we hear from town council, then we decide what to do. We need to resolve these mistakes.

Jeanne Rich- does not think the Planning Board made a mistake. The Planning Board has been approving all pump stations. EAgle Ridge has a pump station in open space and a wildlife corridor.

Carol Jackson- does it state in the Eagle Ridge Flexible Development conditions, no buildings in open space?

Jeanne Rich is sure it does.

Carol Jackson- I'm sure is not definitive. Why would we write in conditions, no structure in open space, then allow this? That just does not make any sense.

Jeanne Rich- plan was approved showing a building in open space.

Carol Jackson- 4x4 building

Russ Williston - agrees with Carol- states decisively in the flexible permit application, that it shall not be used for any structures. That was part of the decision, and restated in a definitive subdivision plan. Never a mistake. Very clear this was not allowed.

Jeanne Rich moved we table this indefinitely

No second

Carol Jackson made a motion to approve the letter

Deb Dennis asked if we were taking public comment

Russ Williston state no, this is an administrative item unless the board feels strongly

Jeanne Rich- asked why we would not take public comment, and hear what they feel

Russ Williston stated she can overrule

Roy Mirabito seconded motion, with an amendment that if this does go to town council that we have the questions that were asked of town council in writing, and answers in writing from town council

Russ Williston asked if this should be in the letter to Orlando?

Roy Mirabito stated yes

Add to the letter , if you request any guidance from town council we request that you forward the questions that you sent to town council and their response.

Roll call vote 4-1

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich nay, Russ Williston yea  
Russ Williston will send out the letter

### **Other Business**

#### **1. Correspondence**

Russ Williston stated he heard from the Town Administrator that the Planning Director position has been relisted

Inclusionary Zoning Study- we still have not received the draft. Judy Barrett indicated we should've had last week. Still have not received. Russ sent an email to Judy Barrett, still has not received.

Carol Jackson- this is taking way too long. We paid an awful lot of money to not have this back yet. Planning Director position, is the Planning Board still tasked with interviewing - Russ stated that is up to the BOS

MRPC- transportation infrastructure program amendment-we can send responses individually

#### **2. Vouchers-**

Tom Christoher move to approve the following

Haley and Ward 20E professional services for Zero Point Solar \$1697.50

Carol Jackson seconded

Roll call vote 5-0

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich yea, Russ Williston yea

Haley and Ward 20E professional services Bestway site plan and stormwater \$1465.00

Carol Jackson seconded

Roll call vote 5-0

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich yea, Russ Williston yea

Haley and Ward review of Poras subdivision \$1496.25

Carol Jackson seconded

Roll call vote 5-0

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich yea, Russ Williston yea

Haley and Ward 20E professional services for review Seventh Day Adventist

\$410.00

Carol Jackson seconded

Roll call vote 5-0

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich yea, Russ Williston yea

Barrett Planning Group LLC for professional services on the Inclusionary Zoning feasibility study for \$8000.00

Russ Williston stated we should hang onto this for one more meeting- we do not have the study yet

### 3. Minutes:

- October 26, 2020 hold to next meeting
- November 9, 2020 hold to next meeting

### 1. Signing decisions

2.

Jeanne Rich - stated she noticed on Sterling Rd- the Seventh Day Adventist Church cut down trees. Have we received an application, or was the tree warden notified? Any decision, Sterling Rd is a scenic road. Can Deb check with Kevin to see if they were on town property.

The church must have 40-45 signs. Is this proper?

Roy stated he thinks this is private property.

Russ stated he thinks signs are under the Zoning Board of Appeals.

Jeanne Rich though if someone on the Town Green Committee could comment.

Carol Jackson - stated the BOS has not made a decision on what the town green committee recommended.

Carol Jackson- asked if the entire Planning Board could be involved in the hiring process of the Planning Director - if they are asked again

Roy Mirabito- Has the open space at the Poras development been conveyed to the Conservation Commission yet?

Russ Williston- not yet

### Adjourn



**Carol Jackson moved to adjourn, Roy Mirabito seconded. The board voted unanimously to adjourn at 8:26 PM.**

Roll call vote 5-0

Roy Mirabito yea, Carol Jackson, yea; Tom Christopher yea; Jeanne Rich yea, Russ Williston yea