

CARVER PLANNING BOARD
MINUTES OF MAY 24, 2022

Approved 6/28/22

Chairman Cornelius Shea, John Gaskey, Kevin Robinson, Ellen Sordillo, Richard Dionne, and Town Planner, Thomas Bott.

Meeting was called to order at 7:04PM.

Pledge of Allegiance is recited.

The proceedings will be videotaped and rebroadcast by Area 58 TV

ANR:

1. To create three (3) new parcels from Lot 1-4 (Assessor's Map 107 Lot 1-4) located at Bunnys Road. Kenneth Conte from Beals & Thomas is present on behalf of A.D. Makepeace and explains this is for a subdivision plan creating three new lots from the existing parcel. The main purpose is to create Lot 3 which is a 50 foot wide strip of land encompassing the existing traveled way, a/k/a Bunnys Road, formerly known as Old Place Road. The plan is the result of a Land Court Survey they prepared and the intent is to transfer the title of that strip of land to the town.

Chairman Shea asks the following questions to Mr. Conte:

Is Lot 3 upland and the response is yes. - Was an Abbreviated Intent Notice filed with the conservation commission and the response is no. - Is the road is currently owned by A.D. Makepeace and the response is yes. - Is Lot 3 an unbuildable parcel and the response is yes. - Where is the frontage for Lots 1 & 2 in regards to Lot 3 and the response is they made Lot 3 50 foot in width so if it becomes a town road there is space available for the town to make frontage on Lots 1 & 2 along the right-of-way lines. Right now they would just have required access to the road. - When did the road come into existence and the response is many years ago it was known as Old Place Road. - Are there any plans for development on Lots 1 & 2 and the response is he is not aware of any. - Has this been put before the fire department and DPW and if so have they made any recommendations.

Mr. Bott interjects he was approached about the project the current road measures 33 feet wide. He contacted the fire and police departments and the technical review committee and asked whether this should be a 40 or 50 right of way and their response was 50 foot. Mr. Bott also indicates as far as potential development if one drives down Bunnys Road currently it is wide enough for two cars however it is not adequate to serve the needs of additional development other than the two lots being created, which the board can state in their motion.

Mr. Shea's concern is how the road winds through the bogs and the road is barely sufficient for the area already. Mr. Dionne asks if these are active bogs and the response the response is they are not sure. Mr. Bott indicates A.D. Peacemaker is not proposing to build a road, they are proposing to create an ANR awaiting a decision prior to subdivision control to create the two lots.

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According to Mr. Bott Lot 3 is not a buildable lot therefore it is considered a parcel and this should be noted on the plan. He recommends the board say - in its current state it is the opinion of the planning board sufficient width, grades and adequate correction of Bunnys Road do not provide the needs for vehicular access for additional development beyond the two lots being created. Mr. Gaskey points out Bunnys Road crosses into Plymouth which could result in problems. Mr. Conte indicates Bunnys Road continues into Plymouth and is a privately traveled way which is 33 feet wide, but Mr. Shea says he believes it is 40 feet wide. Mr. Bott also indicates Lot 3 has been paved by the town probably because there a few residents living at the end of it. He also checked with town council on this matter and their concern was to make sure the plan states that Lot 3 is not a buildable lot. Ellen Sordillo states she has driven down the road and it is very narrow. Mr. Shea recommends there should only be one residential structure on Lots 1 and 2 due to the nature of the road and it being insufficient to handle heavy traffic.

Chairman Shea will accept a motion in regards to this ANR plan. John Gaskey endorses said motion for Map 107 Lot 1-4 located at Bunnys Road for A.D. Makepeace Company prepared by Beals & Thomas on April 20, 2022 and revised May 20, 2022. He also indicates the planning board endorsement does not make the determination as to conformance with zoning regulations but in its current state it is the opinion of the planning board that sufficient width, suitable grades and adequate construction of Bunnys Road do not provide for the needs of vehicular traffic for additional development beyond the two lots being created. The motion is seconded by Kevin Robinson. Chairman Shea takes a roll call vote and Richard Dionne vote's nay, John Gaskey vote's aye, Chairman Shea vote's nay, Kevin Robinson vote's aye and Ellen Sordillo vote's nay. Vote is 2-3-0. Mr. Shea indicates the reason for the nays is because the road is not suitable for this purpose and there are concerns about the wetlands and development ability of the property. The reasons for the negative vote will be documented.

Minor Modification Cont'd.

2. Syncarpha Carver, LLC. – 104 Tremont Street (Map 123, Lot 13 and Map 124 Lots 8-4). Mr. Bott indicates the applicant decided not to make any changes and will stay with the plan that is approved. They requested a vote to accept withdrawal of minor modification. Chairman Shea will accept a motion for vote to accept the withdrawal of minor modification by Syncarpha Carver, LLC. Said motion is made by Richard Dionne and seconded by Ellen Sordillo. Chairman Shea takes a roll call and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.

Public Hearings, Cont'd.:

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3. On the application of E & S Holdings, LLC. requesting a Special Permit and Site Plan Review pursuant to Sections 3100, 5300, 2330 and 2230 of the Carver Zoning by Law, located at Off Spring Street, Lot #1, Ricketts Pond Business Park (Assessor's Map 32 Lot 1-1 & 1-2) in Carver, MA. Mr. Bott indicates Lot #1, Ricketts Pond Business Park is located off Spring Street. The lot will be comprised of three commercial buildings with associated driveways, parking areas, closed-drainage system, septic system and utility connections. Mr. Bott indicates a continuance was requested until June 7, 2022 because technical information needed was not submitted. Chairman Shea will accept a motion to continue the application of E.S. Holdings, LLC requesting a Special Permit and Site Plan Review to June 7, 2022 at 7:00PM. Said motion is made by John Gaskey and seconded by Richard Dionne. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.
4. On the application of Peter Sprague requesting a Special Permit and Site Plan Review pursuant to Sections 3100, 5300, 2330 and 2230 of the Carver Zoning Bylaw, located at Off Spring Street, Lot #2, Ricketts Pond Business Park (Assessor's Map 32, Lot 1-2) in Carver, MA. The project will consist of the construction of two commercial buildings located on Lot #2 – Ricketts Pond Business Park located off Spring Street. The lot will be comprised of two commercial buildings with associated driveways, parking areas, closed-drainage system, septic system and utility connections. Mr. Bott indicates a continuance was requested until June 7, 2022 because technical information needed was not submitted. Chairman Shea will accept a motion to continue the application of Peter Sprague requesting a Special Permit and Site Plan Review to June 7, 2022 at 7:00PM. Said motion is made by Ellen Sordillo and seconded by John Gaskey. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.
5. On the application of DK Properties requesting a Special Permit and Site Plan Review pursuant to Sections 2230, 3100, 3241, 4341, and 5300, of the Carver Zoning by Law, located at 90 Forest Street in Carver, MA (Assessor's Map 49 Lot 61) in the General Business Zoning District the applicant proposes to construct a 6,500 SF craftsman/tradesman building with associated parking and utilities. The applicant is requesting a Special Permit to render more than 10,000 SF of the site impervious. The total proposed impervious area is approximately 18,450 SF. Mr. Bott indicates a continuance was requested until June 7, 2022 because technical information needed was not submitted. Chairman Shea will accept a motion to continue the application of DK Properties requesting a Special Permit and Site Plan Review to June 7, 2022 at 7:00PM. Said motion is made by Richard Dionne and seconded by John Gaskey. Chairman Shea

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takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.

Other Business:

6. Request per Subdivision Regulations § 6.6.2 to extend completion date for Rickets Pond Business Park Subdivision. Mr. Bott explains the applicant asked for a two year extension in writing. Mr. Peter Opachinski, owner of SLT Construction explains there is a large amount of earth to remove from the site and they were limited by the Earth Removal Committee to remove only 50 truckloads a day but as a result of the Covid Pandemic the business was affected and they only averaged about 23 truckloads a day. Mr. Bott explains when the Covid lockdown occurred and there was a state of emergency in place, permits in effect on March 10, 2020 were given an automatic extension of 462 days to complete the work. Chairman Shea indicates since taking the site walk he has concerns about the applicant maintaining environmental controls because the road was filled with sand and gravel, sidewalks were covered and on a windy day plumes of dust blow off the property. Mr. Opachinski responds they have a water truck on site and are looking for an appropriate product to spray on the highest stockpiles (a product that won't negatively affect any neighbors or the environment). They are looking into creating a temporary road so they can use a seeding machine to spray. Mr. Shea asks if there are water controls on the elevator separators and the response is no. He also asks if covers for the trucks are required and the response is yes. Also, what is being done to keep the trucks from dropping dirt on the road, even if they are covered and the response is he has received no complaints.

Dan Sweeney from Fosnick Road, representing Concerned Citizens of Carver, addresses the board indicating this company has been working on site for four to five years and has destroyed the highest point in Carver and they have had numerous court cases against them. He continues, the zoning board of appeals is currently hearing the case on whether to shut down Mr. Opachinski. He also wants to know when the project and road will be completed. He is very concerned about the dirt and dust coming from the project, especially when driving by the site on Route 44. Mr. Sweeney states Mr. Opachinski ignores neighbors' requests and doesn't follow the laws. Mr. Opachinski responds to Mr. Sweeney's comments indicating the applicant is currently involved in an Enforcement Action, not a court case, and it has nothing to do with the project. Mr. Shea indicates he will talk to the building commissioner to see if any complaints have been filed. Richard Dionne also indicates he is concerned about the dirt on Spring Street.

Dorothy Pollack of High Street, an abutter to the project indicates Lot 3 on the plan is

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adjacent to a vernal pool and she is also adjacent to the same vernal pool. She says the vernal pool is covered in silt because the applicant was allowed to go within 65 feet of the wetlands. Also the shade trees have all been taken down next to the vernal pool resulting in beating sun which makes the water evaporate very quickly. Due to this the water level is very low for this time of year and believes it will be dry by August, which she says is unusual. She also states the conservation commission is aware of this. She further indicates there is a 100 year drainage pit with a big pipe in it. They have planted grass but it has all since died and trash blows right through the area. She asks the board if there can be a moratorium on the project until at least the site issues are controlled. Mr. Opachinski says he has been in contact with the conservation commission and the commission has spoken to Ms. Pollack on the matter. The conservation commission has also been to the site and seen no silt on the vernal pool or any nearby erosion. The commission also did a site walk on 5/24/22 and found no issues. He indicates he stopped paying attention to Ms. Pollack's complaints because he saw no merit in them and rather forwarded the complaints to the commission. He installed a filter sock near the pool and added crushed stone to protect it from runoff. He believes every time Ms. Pollack complained to the commission they went to the site to check it out. He states he has not received any complaint from the town for the four years he has been at the site.

Chairman Shea indicates he noticed on the site walk some silt fences were missing as well as sock filters and there was clear runoff into the vernal pool area. Mr. Shea continues he contacted the project's engineer regarding the issues and also possible diesel spills and roadway issues and notes these items need to meet compliance. Mr. Bott indicates he also did a site walk and passes around his cell phone to the board showing photos of the site. He continues the silt fence is missing, but it is on Lot 3 which has been sold, and some of the grass is sparse and the basin itself is intact. Ms. Pollack will contact the owner of Lot 3. Mr. Bott recommends extending the project for one year until July 24, 2023, given the laws of subdivision projects. Mr. Dionne indicates he would like to see a sweeper taking care of the site on a regular basis.

Chairman Shea will accept a motion to extend the completion date for Ricketts Pond Business Park Subdivision through July 24, 2023, based on appropriate measures to site containment specifically clear roadway, clear gutters, sidewalks cleared, erosion controls. Silt fencing should be maintained and kept up to date, any diesel or hazardous material spills should be reported to the board of health regardless of DEP requirements, and dust controls for the elevators as well as tarping and seeding or water for the piles. Ms. Sordillo asks if the site can be reviewed to make sure they are in compliance and Mr. Bott states the building commissioner is at the site regularly. Ms. Sordillo also asks if unannounced site visits are possible and Mr. Bott responds according to the law they have the right to check on the site without notice. Said motion is made by Kevin

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Robinson and seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's nay, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Approved 4-1-0.

7. Request Lot Releases for Ricketts Pond Business Park Subdivision: Lot 1 and Lot 2 since reconfigured as Lot 1, Lot 2 and Lot 2B. Mr. Bott indicates this was an approved subdivision that referenced a covenant but there was never a covenant filed, so given that Mr. Bott asks Mr. Opachinski to prepare a covenant. There is also no surety issued on the project but states MA law gives the developer options for obtaining a bond. He also states no one can build on Lot 1 until the covenant and bond are approved by the planning board. However before the bond goes before the board for approval it first has to be approved by town council the town's engineer. After these are approved by both entities discussions can be held releasing additional lots. To summarize currently there is no covenant and no surety. Mr. Opachinski indicates he had a bond company prepare a draft which he will give to Mr. Bott and he believes the amount is \$580,000. The bonding company is waiting for an estimate from the town's engineer and they will amend the draft at that time.

Mr. Shea asks if Lots 1 and 2 are released will they become Lots 1, 2 & 2b and Mr. Opachinski responds that he did amend the lot release form after discussions with Mr. Bott so it will only be for Lots 2 and 2b because these are the lots that are being purchased. Mr. Bott points out Lot 1 would be under a covenant if there was a covenant. Mr. Opachinski indicates he has a covenant form ready. Mr. Bott states the estimation for the bond was \$387,590.87 with contingencies on it. Mr. Bott states releasing Lots 2 and 2b would be an act of good faith between the board and the developer because of errors made by the town. According to Mr. Bott this was previously approved by the board, but the covenant was not mentioned on the plan that was recorded. Mr. Bott's recommendation is to put the covenant in place so other lots will come before the board, as well as putting surety and conditions in place. Chairman Shea asks Mr. Bott if the board is looking a reaffirm the covenant and approve the bond numbers as approved by the engineering firm. Mr. Bott's response is yes, correct. Chairman Shea will accept a motion to release Lots 2 and 2B based on the recording of a covenant. Said motion is made by Ellen Sordillo and seconded by Kevin Robinson. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's nay, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Approved 4-1-0.

Chairman Shea will accept a motion to release Lots 2 and 2B based on the surety of the town's engineering firm. Said motion is made by Kevin Robinson and seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's nay, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen

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Sordillo vote's aye. Approved 4-1-0.

8. Preliminary Subdivision Plan – Slocum-Gibbs Cranberry Co., 0 Wareham Street, (Assessor's Map and Lot Nos. 127-13-0, 128-1-0, 128-2-0, 128-3-0, 128-6-1, & 128-15-0). Mr. Bott indicates a continuance was requested until June 7, 2022 because technical information needed was not submitted. Chairman Shea will accept a motion to continue the application of Slocum-Gibbs Cranberry Co. regarding Preliminary Subdivision to Plan June 14, 2022 at 7:00PM. Said motion is made by Richard Dionne and seconded by John Gaskey. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.
9. Preliminary Subdivision Plan – ReWild Renewables, Float Lane 0 Rear Plymouth Street, (Assessor's Map 45, Lot 1). Chairman Shea will accept a motion to continue the application of ReWild Renewables regarding a Preliminary Subdivision Plan to June 14, 2022 at 7:00PM. Said motion is made by John Gaskey and seconded by Richard Dionne. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.
10. Preliminary Subdivision Plan – Borrego Solar Systems, Inc., Cedar Meadow Drive, 0 Rear Ward St, 19C Ward Street, 0 Rear Ward Street, (Assessor's Map 120, Lots 5, 6-1, & 7). Chairman Shea will accept a motion to continue the application of Borrego Solar Systems, Inc. regarding a Preliminary Subdivision Plan to June 14, 2022 at 7:00PM. Said motion is made by Kevin Robinson and seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.

Topics not reasonably anticipated by the Chairman 48 hours in advance of meeting

Other Business

A. Planning Board Member Notes-Chairman:

Chairman Shea indicates they are still accepting applications for the zoning by-law committee and as well as an alternate member to the planning board.

B. Planning Director Notes – SRPEED Representative:

Mr. Bott asks if any member of the planning board would like to be the SRPEED

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representative. Chairman Shea agrees to accept the position and a roll call vote is taken. A roll call vote is taken and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.

C. Discussion: None.

D. Minutes – 3/30/2022: Chairman Shea will accept a motion to approve the minutes of the May 30, 2022 meeting, as amended. Said motion is made by Kevin Robinson and seconded by Ellen Sordillo. A roll call vote is taken by Chairman Shea and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.

Minutes – 3/31/2022: Chairman Shea will accept a motion to approve the minutes of the May 31, 2022 meeting, as amended. Said motion is made by Ellen Sordillo and seconded by Kevin Robinson. A roll call vote is taken by Chairman Shea and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.

E. Adjournment: Chairman Shea will accept a motion to adjourn the meeting. Said motion is made by John Gaskey and seconded by Ellen Sordillo. A roll call vote is taken by Chairman Shea and Richard Dionne vote's aye, John Gaskey vote's aye, Cornelius Shea vote's aye, Kevin Robinson vote's aye and Ellen Sordillo vote's aye. Unanimously approved 5-0-0.

Documents for 5/24/2022 PB Meeting

Revised ANR plans for Bunnys Road

Memo dated 5/23/2022 to Planning Board from Thomas Bott re: ANR Plan for Bunnys Road

Letter date 5/19/2022 to Thomas Bott from Julie Scott, P.E. re: withdrawal of minor modification for Syncarpha Carver, LLC.

Letter dated 5/9/2022 to Planning Board from Peter Opachinski – extension request to complete subdivision

Memo dated 5/23/2022 to Planning Board from Thomas Bott re: Ricketts Pond Business Park (RPBP) extension, Covenant and Lot Release

Preliminary Subdivision Plan – Slocum-Gibbs Cranberry Co., 0 Wareham Street, (Assessor's Map and Lot Nos. 127-13-0, 128-1-0, 128-2-0, 128-3-0, 128-6-1, & 128-15-0)

Preliminary Subdivision Plan – ReWild Renewables, Float Lane 0 Rear Plymouth Street, (Assessor's Map 45, Lot 1)

Preliminary Subdivision Plan – Borrego Solar Systems, Inc., Cedar Meadow Drive, 0 Rear