

PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

Present from the Planning Board: Chairman Bruce Maki, Cornelius Shea, John Gaskey, Kevin Robinson, Ellen Sordillo (remote) and Richard Dionne, and Interim Planning Director, Thomas Bott, Sharon Clark, RDA, Savory Moore, RDA, and Joanna Leighton, RDA

Absent: RDA members Patrick Meagher and Paul Kostas.

Meeting was called to order at 7:10 P.M. at the Carver Middle High School cafeteria.

Pledge of Allegiance was recited.

The proceedings will be videotaped and rebroadcast by Area 58 TV

Thomas Bott speaks to the audience explaining there are several moratoriums on the agenda for the season and a moratorium is for zoning and require a two-thirds vote and that vote is a temporary measure of twelve months or eleven and half months to see how it affects future developments. Zoning and moratorium are not retroactive in that they don't affect anything that has already been permitted, so any solar operations that have been permitted or any battery operations that have been committed are not affected and they go on to continue as they only affect future projects. Moratoriums are also not extended infinitely, meaning the work must be done in one year

Articles 25, 39 & 40: Moratoriums on Mounted Solar Photovoltaic Installations Petitions to Amend the Carver Zoning Law. Chairman Maki reads Articles 25, 39 and 40 aloud. John Gaskey indicates, according to MA law, he is disclosing his wife, Mary Dormer, is presenting Article 40 and said article provides no financial interest to him or his family. There is no one present to represent Articles 25 and 39. Cornelius Shea asks what the legal difference is between the three articles. Attorney Amy Kwessel from KP Law responds Articles 25 & 39 have a 12 month moratorium and Article 40 has an 11 ½ month moratorium. She believes all these article have procedural issues.

Mary Dormer, a member of the Housing Authority addresses the board regarding an 11 ½ moratorium on large scale solar installations. She indicates currently there are 20 existing and proposed large-ground solar projects within Carver and most of them have lithium ion batteries attached to them. One of her concerns is how this will affect town water aquifer.

Some of the solar sites have CPA poles which are copper promoted arsenic poles that haven't been removed from the dual use cranberry bogs. She continues a moratorium makes sense to conduct water studies at some sites to see if the aquifer is being polluted. Currently 469 acres have been used for large-ground natural solar installations, and of those 157 acres of forest have been clear-cut. These are filled in riverfronts and wetlands and some sites have had industrial mining done. We are asking for a yes vote Article 40 for a moratorium to stop large-ground solar installations for 11 and ½ months. Chairman Maki asks Attorney Kwessel if this will affect the

PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

Green Business Park with the solar on top of the building. She responds it would not because their project is rooftop. Mr. Shea responds all three moratoriums are for large-scale ground mounted solar, and Mr. Dionne adds the Green Business Park building would not be able to be built in 11 ½ months. Tom Bott states these are moratoriums for ground mounted solar, not for solar on the roof of a building, therefore it is not subject to large-scale ground mounted solar because it's not on the ground.

Another audience member asks the board what is the benefit of installing solar since the residents are not seeing any reduction in electrical bills. Chairman Maki indicates it depends on the location of the installations, for example cranberry growers have installed solar on their property and they lease the property to the solar companies so they get paid for leasing the solar panels on their property. It helps them maintain their bogs and many smaller bog growers have come before the board to say they were losing money growing cranberries, but with solar panels installed they can make money. Also, the town receives tax money from these projects that's worth thousands of dollars. The pilot project brings in roughly \$400,000 in taxes to the town.

Alex Michado of 55 Cranberry Road, a member of the audience, addresses the board indicating his family has been growing cranberries in Carver since 1960-1970 and they have experienced ground water contamination through solar installation towards Route 495 southbound. Behind the farm stand there's a solar field that was installed using pressure treated beams that flush to 30 feet into the ground and runs from an aquifer to the state forest and supplies fresh water all through the State of Massachusetts. He asks the board how the solar installations being discussed will be different from those installed before, so the contamination doesn't happen. Cornelius Shea states the planning board has never allowed pressure treated poles to be used in any of these projects and its one singular aquifer with various tributaries to it so it is considered as a whole so contamination in one part is theoretically contamination of a larger body. Chairman Maki states the pressure treated poles are supposed to be replaced by concrete poles, but the project is being held up by a lawsuit. Mr. Machado is concerned about how long this is taking and Chairman Maki states there were many engineers at the conservation commission meeting where they voted on pulling the pressure treated polls and replacing them with concrete polls and many engineers at the meeting discussed the testing they did around the poles, and found no contamination coming from them. Mr. Maki also states new testing will be done around the concrete poles as well. Mr. Shea indicates he believes there will be a review of the solar by-laws and the ground mounts of solar by-laws and that will be a public process. Mr. Machado is concerned because Carver is like a huge freshwater aquifer for the local area and its being called the big swamp of Massachusetts because we are all wetlands and rivers so if anything goes the wrong way it goes into all of our drinking water.

Another audience member asks how affective solar panels are concerning climate change and

PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

suggests it's more about making money than climate change. Chairman Maki disagrees and considers this the individual's opinion. Ms. McNamara of 246 Tremont Street addresses the board and asks when the existing poles will be removed and replaced by concrete poles. Tom Bott says this should have been done but a lawsuit is holding up the project and it won't be done until the lawsuit is settled. She also asks if water samples are being taken around the poles while waiting for the lawsuit to settle and Tom Bott states he has no idea. She also states if individual homeowners want to have water tested it's very expensive and not fair they should have to carry the cost of this burden. Chairman Maki suggests she talk to the Board of Health. Dorothy Pollet of 158 High Street asks who will pay for the cost of removing the solar panels after their life expectancy ends, usually around 20 years, as well as their disposal. Mr. Shea indicates the town will require a bond from the owner of the solar equipment for expected costs of removal. James O'Brien of 4 Great Meadow Drive addresses the board and respectfully reminds the board that the town is putting their faith in them to diligently vet the companies they deal with because eventually anything negative will affect the homeowners and cranberry bogs. Another audience member addresses the board asking if the cranberry bog owners pay taxes on the property while at the same time receive money from the solar companies. Mr. Maki responds yes and they also pay equipment taxes on the solar panels that depreciate each year. Chairman Maki addresses the audience explaining he was originally not in favor of changing the by-laws on this matter, but in time he came to see that clarifications were needed in the by-laws and gives an example of the number of trees taken down on a cranberry bog field is limited to a certain amount of land, for instance, a 40 acre field is only allowed to cut down trees on 2 acres of that land. Another audience member asks the board if there are setback requirements concerning the wetlands and Chairman Maki responds yes.

Attorney Kwessel asks Ms. Dormer if there is anything in Article 25 she disagrees with. She would like the following to be changed from, "may develop a plan to mitigate future impacts of such Installations" to "shall develop a plan to mitigate future impacts of such Installations." Cornelius Shea makes the motion to make said changes and it's seconded by John Gaskey. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea aye, John Gaskey aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.

Mr. Shea asks Attorney Kwessel if the 12-month moratorium is problematic in regards to a moratorium for 11 ½ months and she responds no. Chairman Maki entertains a motion to close the public hearing on Article 25 and recommends to town meeting. Said motion is made by Cornelius Shea and it's seconded by Kevin Robinson. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.

Chairman Maki entertains a motion to close the public hearing on Article 39. Said motion is made by Cornelius Shea and it's seconded by John Gaskey. Chairman Maki takes a roll call

PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey, Kevin Robinson says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.

Chairman Maki entertains a motion to close the public hearing on Article 40. Said motion is made by Cornelius Shea and it's seconded by Kevin Robinson. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea aye, Kevin Robinson says aye, Ellen Sordillo says aye, and John Gaskey says aye. Unanimously approved 5-0-0.

Cornelius Shea makes a motion to not recommend Article 39 and Article 40 without prejudice and it is seconded by Kevin Robinson. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea aye, Ellen Sordillo says aye, John Gaskey says nay, and Kevin Robinson says aye. Unanimously approved 4-1-0.

Article 31: This article is to amend Article 21 to change to non-medical marijuana overlay districts (NMOD) North Overlay to accept and approve Map 21 Lot 4-4 for use as marijuana cultivation and processing facility. Thomas Bott indicates this is an industrial district but it is not contiguous to the overlay district. The overlay district is fully on the north side of Route 44 and splits Route 58 on the north side of Route 44. This is a separate parcel, not contiguous in the area and it's not typically what one would see if the overlay were expanded. There is no one at the meeting that is representing this matter. Ms. Cooney, a member of the audience addresses the board indicating she would like more hemp farms allowed. She states biofuel can be made from this product. Chairman Maki states there is land in Carver designated and used for this product, but the particular parcel being discussed is not contiguous with the marijuana district, therefore he believes this article can't be allowed because it is not legal according to the law.

Chairman Maki entertains a motion to close the public hearing on Article 31. Said motion is made by Cornelius Shea and it's seconded by John Gaskey. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.

A roll call vote is taken to not recommend Article 31 to town meeting. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says aye, Kevin Robinson says aye, and Ellen Sordillo says aye. Unanimously approved 5-0-0.

Article 38: Temporary 11 ½ month moratorium to March 26, 2023, on the new use of land for Battery Storage. Chairman Maki reads the article aloud. Mary Dormer addresses the board on behalf of farmers and concerned citizens and indicates there is a proposed battery project for 150 megawatt battery energy storage facility off of Main Street and across from the fresh food area and adjacent to the existing Eversource electrical equipment transformers and they want to store 116 lithium ion batteries on the property. Chairman Maki states this project has already been

PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

approved by the planning board, but Ms. Dormer points out it has not been yet been approved by the state. Ms. Dormer indicates that Cranberry Point Energy Storage and agrees if this moratorium passes it would stop the construction of it. Attorney Amy Kwessel indicates the state has the final word on the project. Ms. Dormer indicates this project will be very close to the elementary school and 975 homes surround it, and some 500 of them are within 800-1000 feet away. She also indicates these batteries sometimes explode causing a fire that can be very difficult to control. She believes the town needs to upgrade the fire department to be able to address this type of problem if the town wants to have these types of projects. She brings up items she believes should be added to the moratorium, such as a hazard analysis, mitigation analysis, and environment impact analysis, all performed by a third party. She would like to have proof of liability so if anything does go wrong, for example, water contamination the town will know who is responsible. She would also like to see each fireman insured for not less than two million dollars each in case they lose their life during any catastrophe that might occur.

Dan Feri, an audience member addresses the board stating he researched Cranberry Point Energy Storage and found it is a shell company which is owned by another company, Plus Power. He continues that in looking up the company on-line he could not find who owns the company, who the CEO is or who manages it. He believes this project will be detrimental to the town and the project should be shut down. Alex Machado of 55 Cranberry Road from the audience addresses the board and indicates he is a wildland firefighter for the State of Massachusetts and actually operates the fire towers for Kingston, Plymouth, Middleboro, the whole district 2 fire region. He triangulates brush fires from the towers and over the last two years there were over 1,200 brush fires, noting most of the fires are the result of high tension wires and branches that fall on them. Should this facility be built as proposed the town needs to realize that brush fires will be likely because of the high tension wires. Sometimes they are able to put out these fires, somethings they are not successful depending on wind conditions.

Chairman Maki addresses the audience stating when this project came before the planning board public notices were sent out to all abutters and a public hearing was held, but very few people attended. The fire department was involved in the planning board discussions as well and conditions were put in place for the fire department to train the firefighters for any possible fires resulting from the project. Ms. Cooney from the audience interrupts and speaks to the board indicating this was before the planning board when the Covid pandemic was around, but Mr. Maki states the approval was made before Covid. She is concerned about fire spreading to where she lives since she is near power lines, but does not live close to the project. Cornelius Shea asks what by-law battery storage would come under and Mr. Maki responds the town does not have a by-law for battery storage.

A motion is made by Cornelius Shea to close the public hearing on Article 38 and it's seconded by John Gaskey. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea

PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

says aye, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye.  
Unanimously approved 5-0-0.

A motion is made by Cornelius Shea to recommend Article 38 to town meeting and it's seconded by John Gaskey. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye.  
Unanimously approved 5-0-0.

Article 20 TDR: Zoning by-law Section 2700 Transfer of Development Rights By-Law amendment. This article is submitted by the Planning Board to see if the town will vote to amend the Carver Zoning By-law, Section 2700. Cornelius Shea indicates this article is about open space the town wants preserved and redirecting the development to where the town would rather see development, where infrastructure is available to do that. The old by-law was not skewed in favor of the town and the numbers were ridiculously out of proportion to what the town could handle. The new by-law adds further protections such as much stronger defense for the town and the ability for the town to control growth and save some of the more important areas of town such as certain aquifers, open space, and scenic views. Bill Napolitano, an environmental planner with Southeastern Regional Planning and Economic Development District indicates this by-law has been enacted since 2001 and goes over the history and amendments made during the life of the by-law.

Joanna Leighton from the audience and member of the RDA Board addresses the board asking about the by-law. Mr. Shea responds saying the by-law is actually zoned for planned neighborhood development so it fit in well with putting it on the TDR map. Ms. Leighton indicates Route 44 Development already owns or will own the property. Mr. Shea responds saying the receiving area is owned privately and not by the town. This is based on access to infrastructure such as water and roadways and based on the master plan. That particular project at the time when this map was done approximately eight months ago no information was put forth to the town to define or definitively address this. Mr. Shea states this article in no way affects the Green Business Park. She points out the MBTA is going to bring in fifty homes and asks if the town is ready for this. Helen Zincavage, Director of the Environmental Program at Southeastern Regional Planning and Economic Development District responds the MBTA community is optional and gives developers a choice between a conventional subdivisions and conventional town homes, for example. Mr. Shea states the landowner can do what they like with the land by going by the TDR which will make the land more valuable and does not interfere with their rights, it only increases their rights.

Chairman Maki entertains a motion to close the public hearing on Article 20. Said motion is made by Cornelius Shea and it's seconded by Kevin Robinson. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, Kevin Robinson says aye, John Gaskey

PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

says aye, and Ellen Sordillo says aye. Unanimously approved 5-0-0.

Chairman Maki entertains to recommend Article 20 – TDR by-law, as amended, to town meeting. Cornelius Shea makes said motion and it's seconded by Kevin Robinson. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, Kevin Robinson says aye, John Gaskey says aye, and Ellen Sordillo says aye. Unanimously approved 5-0-0.

The RDA members join the Planning Board at the table and Sharon Clark introduces a quorum to the meeting and calls the meeting to order. Tom Bott explains the changes to the by-laws and goes over graphics he's put together for the members clarifying modifications and changes to the articles from the meeting of 03/30/2022.

Article 10: Table of Dimensional Requirements – Building Height in GBP. Cornelius Shea indicates he is concerned about fire, police and safety in raising the height to 65 foot capacity. Sharon Clark states the police, fire and safety departments did an exhaustive studies on this, almost a year, and they have no concerns about the 65 foot height. Mr. Shea states the area is for a proposed warehouse distribution center but because this property is zoned for much broader projects including hotels, school, or planned neighborhoods a 65 foot height would not be in line with safety regulations because the town is unable to handle something like that. He suggests this be sent back to the planning board for further review. Chairman Maki points out this is only for one building to have that height and any other proposed projects have to go through a site plan review process. John Smolak, Attorney for Hillwood addresses the board and states Hillwood is committed to taking the next step to propose a warehouse distribution facility.

Cornelius Shea makes a motion to approve Article 10 as amended for town meeting and it's seconded by Kevin Robinson. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says nay, John Gaskey says nay, Ellen Sordillo says aye, and Kevin Robinson says aye. Approved 3-2-0.

Article 11: Definitions – Height of Certain Accessory Structures.

Cornelius Shea makes a motion to approve Article 11, as amended, for town meeting and it's seconded by John Gaskey. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.

Article 12: Access Driveways – Nonresidential Premises.

Chairman Maki entertains a motion to recommend Article 12 to town meeting. Cornelius Shea makes a motion to approve Article 12, as amended, for town meeting and it's seconded by John Gaskey. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye,

PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.

Article 13: Rezone from Highway Commercial (HC) to Green Business Park (GBP) District. Chairman Maki entertains a motion to recommend Article 13 to town meeting. Cornelius Shea makes said motion and it's seconded by Kevin Robinson. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says nay, Ellen Sordillo says aye, and Kevin Robinson says aye. Approved 4-1-0.

Article 14: Amend Section 3580 – Exemptions from Large Scale Ground Mounted Voltaic Installation. Chairman Maki entertains a motion to recommend Article 14 to town meeting. Cornelius Shea makes a motion to recommend Article 14, as amended, to town meeting and it's seconded by John Gaskey. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.

Article 15: Amend Sections 3166 and 3347 – Site Plan Review Performance and Parking Lot Lighting Standards. Chairman Maki entertains a motion to recommend Article 15, as amended, to town meeting. Kevin Robinson makes said motion and it's seconded by Ellen Sordillo. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says nay, John Gaskey says nay, Ellen Sordillo says aye, and Kevin Robinson says aye. Approved 3-2-0.

Article 16: Amend Section 3521 – Permitted Signs For Green Business Park (GBP) District. Chairman Maki entertains a motion to recommend Article 16 as written to town meeting. Ellen Sordillo makes said motion to town meeting and it's seconded by John Gaskey. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.

Article 17: Amend Section 2230 - Allow Privately Owned Wastewater Treatment Facilities as an Accessory Use. Chairman Maki entertains a motion to recommend Article 17, as amended, to town meeting. John Gaskey makes said motion and it's seconded by Kevin Robinson. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says nay, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Approved 4-1-0.

Adjournment – RDA

Sharon Clark makes a motion for the RDA to adjourn their participation in the meeting. All members vote aye. Approved.

Article 19: Zoning by-law Section 3500 signs amendment. Chairman Maki entertains a motion



PUBLIC HEARING BY THE CARVER PLANNING BOARD JOINT WITH THE RDA  
MINUTES OF MARCH 31, 2022

to recommend Article 19 to town meeting. Kevin Robinson makes said motion and it's seconded by Ellen Sordillo. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says nay, Ellen Sordillo says aye, and Kevin Robinson says aye. Approved 4-1-0.

Planning Director Notes:

The next two planning board meetings will be on April 12 and April 26, 2022.

Planning Board Member Notes:

This is Chairman Maki's last meeting since he did not run for election. He wishes all the members the best. He gives special thanks for Tom Bott for all his help and assistance.

Adjournment – Planning Board

Chairman Maki entertains a motion for adjournment. Kevin Robinson makes said motion and it's seconded by Cornelius Shea. Chairman Maki takes a roll call vote. Bruce Maki says aye, Cornelius Shea says aye, John Gaskey says aye, Ellen Sordillo says aye, and Kevin Robinson says aye. Unanimously approved 5-0-0.