



## Town of Carver, Office of Planning and Community Development

Approved 7/23/19

Planning Board Meeting Minutes, July 9, 2019, Carver Town Hall, Meeting Room #11. This meeting was videotaped by cable cast area 58, channel 15.

Attendees: Bruce Maki, Chairman; William Sinclair, Member; James Hoffman, Member; Kevin Robinson, Member; James HJen Bogart, Member Kevin Robinson

Also Present: Jim Walsh, Planning Director; Andy Glimes, Fuss and O'Neil

Absent:

Bruce Maki, Chairman, opened the meeting at 7:00 7:00 PM, followed by the pledge of allegiance.

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### Approval Not Required:

- William Peters – 19 & 21 Fosdick Road (Map 65-1-11R and 65-1-10R) – Receipt of Plans

We will receive plans tonight and discuss at our next meeting. Mr. Maki asked Mr. Walsh to review prior to next meeting.

- Jack Williams – Lillian Way and Old Main Street (Map 49, Lot 62, 62-1) – Discussion and possible vote.

Mr. Sinclair – As I am an abutter I will remove myself from the Board, at this time.

Mr. Sinclair, RDA Member – I would like to thank the applicant for waiting for us to get our bounds set. They are now set, thank you. Mr. Maki – These plans meet all the zoning requirements. Mr. Robinson – If we held off approval until the new planner reviewed, would there be an issue. Mr. Maki – We looked at it and it does meet all the requirements. Mr. Robinson – As a board, are we comfortable with the new planner not looking at this? Mr. Maki – it is pretty straight forward; I have no issue with it.

*Motion to approve: Mr. Robinson*

*Second: Mr. Hoffman*

*Approved: 4-0-1*

7:07 PM - Mr. Sinclair returned to the Board.

### Discussion and possible vote:

- On the application of James Cranston, Bohler Engineering (Agent for McDonald's), requesting a Minor Modification of Site Plan and Special Permit pursuant to Sections 3561 (a) Sections 3531 and 3570 of the Carver Zoning by-Law, located at 96 North Main Street in Carver, MA (Assessors Map 18-3-A) to allow renovations to the existing building and site improvements in the Village Business District.

Mr. Maki – I apologize for the meeting confusion. James Cranston, Bohler Engineering – There were two small changes since the initial filing. It was requested that we revise and resubmit which has been done. Conditions were read by Mr. Maki.

Mr. Maki – Any additions? Ms. Bogart – Decision is dated June 25; we will need to fix that. Mr. Maki – I don't know if that has anything to do with the conditions though; we could sign this tonight. Ms. Bogart – I also wanted to mention that I love the quaintness of our McDonalds, I will miss the old style.

*Motion to accept conditions for minor modification with clarification of dates, for McDonalds, 95 Main Street: Mr. Sinclair  
Second: Ms. Bogart*

#### *Discussion*

Mr. Hoffman – Should this be two votes. Special Permit on Page 2, should be stricken?

Mr. Sinclair – I will revise my motion -

*Motion to approve the minor modification and special permit for McDonalds with conditions and clerical clarification on the dates: Mr. Sinclair  
Second: Ms. Bogart  
Approved: Unanimous (5-0)*

- On the application of David Mulcahy, 1929 Development, LLC of Kingston, requesting a Special Permit and Site Plan Review pursuant to Sections 2230 and 3100 of the Carver Zoning by-Law, for property located at 157 North Main Street, on Assessors Map 24 – Lot 4A, Carver, MA

Attorney Whittaker - We have a proposed decision dated 7/9/19, do you have it? Mr. Maki – We have 6/11/19 decision. Attorney Whittaker distributed to the Board. Kevin Grady, Engineer – We submitted this a while ago, followed by meetings, site walk and peer review. The project is for the construction of a Craftsman/Tradesman building. The site plan includes the construction of the building, 19 parking spaces, access and egress. We are proposing to keep as much of the existing driveway as we can. We've providing site lighting and landscape plans. We have gone through the storm water management requirements, which includes swales and runoff off to the rear property line. We have approval from the Conservation Commission. The site consists of 4.6 acres (3 acres is upland). Sheet 1 does not show additional lots associated with this (see sheet 2). They will remain as woodland. The garage floor will have a drain with a tight tank, per state building code. We are requesting a special permit for water resource protection district. We are providing all the necessary apparatus for a site like this. Mr. Maki – At one time there was concern from Fire Department for 3 sides of the building be accessible. Mr. Grady – We have provided access to 3 sides. Mr. Maki – I just spoke to Jessie Boyle of the Fire Department; there was a note that sq. ft. required for sprinkler system is 7500 sq. ft. What do you have? Mr. Grady – Just under 7500 sq. ft. Mr.

Maki – you did not include the basement; what kind do you have? Jessie indicated that it needs to be included. Mr. Grady – Walkout with unfinished. There is a garage slab so the basement is small. If they do go over 7500, the Fire Department will require sprinkler system. If that happens, they will probably reduce the size of the building. Mr. Maki – The Fire Department indicates that basement sq. ft. will be included. Attorney Whittaker – Before the plans and building permit are submitted, they will meet. Engineering – I am not sure if we included the basement initially. Mr. Robinson – Was water resource protection endorse/approve? Mr. Maki – It was approved by the Conservation Commission. Mr. Robinson – I would be interested in what the Water Resource Protection would think? Mr. Sinclair – That would be under the Conservation Commission. Mr. Robinson – As long as they have okayed it then I would be okay with it. Mr. Maki – The conservation Commission looks at it for the detriment of the environment. We have had our engineers look at it. They indicated that with the tight tank they are good with it. Any spillage would all go into the tight tank. Attorney Whittaker – Board previously determined that the use qualified as a craftsman/tradesman in the zone. Stephen prepared everything in front of you by Stephen Cole prior to leaving. The compromise was to maintain the non conforming use. This is a win for the town. This proposal meets standard of 4300. The conditions will protect the neighbors and the town. Mr. Robinson – What is the time frame in which the current tenant is there? Attorney Whittaker – The condition provides that the tenant has to be out. Mr. Robinson – I wanted to make sure this was not going to continue as a lease. Mr. Sinclair – Page 5 – The south side of the property change from loam and seed to gravel. Revise this to indicate stable base.

Audience:

No questions heard

*Motion to close the public hearing for 1929 Development, LLC, 157 North Main Street: Mr. Hoffman*

*Second: Mr. Sinclair*

*Approved: Unanimous (5-0)*

Conditions listed on page 2 of Cara's Letter

1. Pursuant to section 4336 of the Carver Zoning by-Law, all storm water runoff from impervious surfaces shall be recharged on site.
2. Applicant shall submit information regarding the following to the Board of Health, Fire Department and Planning Board: Brand name of chemical treatment; emergency contact name and number for the business; emergency name and contact for the chemical treatment manufacturer; active and inactive ingredients; spill prevention and response plan; first aid administration for contamination in eyes, skin, ingestion or inhalation; storage requirements and conditions. Any change to the chemical treatments

Mr. Maki - Waiver – Not required? \_ I thought there was a frontage issue? Engineer – We have 522 feet of frontage.

Mr. Maki – We should also add the inclusion of the basement square footage for the sprinkler system. Engineer – We have to comply anyway so it's duplication. Attorney Whittaker – Yes, if there is a change in building size, it would be a minor modification. Engineer – I will update wills language anyway and will review sq. ft. at that time. Vote to approve site

Motion to approve the site plan and special permit for 157 N. Main Street, with conditions read: Mr. Sinclair

Second: Mr. Robinson

Discussion:

Ms. Bogart - Amendment to #2 - Add "Approval of the Planning Board". Before any new chemical being used or stored we need to approve it. The two chemicals presented to us were more natural, oil-based ingredients. Section 4344 does not allow storage of toxic materials which some pesticides are. We should approve any new chemical because it could affect the water. This give us the authority to approve new chemicals. Mr. Robinson - I don't know as we would be considered professionals on that subject. Mr. Walsh - If there were changes it would come before the three boards for review. Ms. Bogart - Would we have any authority to confirm their safety. Mr. Maki - I think that it's in there. Mr. Robinson - Is Jen right in saying we can do that? Mr. Walsh - Board of Health and Fire Department would be the professional departments that I would defer to. Unless you want to consider the change in chemical as a minor modification. After the Board of Health and Fire Department reviewed they would recommend to the Planning Board. Ms. Bogart - Nothing says to approve. Mr. Robinson - Do we have the opportunity to be part of that decision? Mr. Sinclair - Any changes to the chemical ingredients use/stored - **shall require a minor modification and a return to this Board.**

Attorney Whittaker - If this delays his business, it could put him out of business. I think the town is protected. Mr. Robinson - I believe everything should be looked at for the protection of this town. This process went long as we wanted to make sure it's done correctly. Attorney Whittaker - I think the town is amply protected. If he decides to use another product, he has to notify the town. Engineer - I agree that you are protected. The zoning enforcement office could say you are not in compliance and require a new special permit or minor modification. Ms. Bogart - Section 4344 would be affected if the chemical were toxic. Attorney Whittaker - The Board of Health or Fire Department would deem whether a chemical were an issue. The town is already protected. Mr. Hoffman - If you present a change to chemical use and the Board of Health approves then it would not require a minor modification. Engineering - This would be a zoning approval issue if we were out of compliance. Attorney Whittaker - My client has no problem submitting any changes. His products are all natural. If we start overlaying with all of these approvals, it would cause an issue for him. If there are any issues, the Board of Health or Fire Department will make an issue of it. The Board of Health and Fire Department would be the first line of approval. Mr. Maki - Change last sentence in Condition 2 to read:

"Site shall necessitate updating and approval of the local authorities."

Mr. Hoffman - If any chemical is changed, it would automatically go to the Board of Health. We don't see it written, is it implied? Attorney Whittaker - I think it is clear in the language; with notice, you are protected. He wants to conform and do it right. Mr. Hoffman - If they change the chemical, does he have to get it approved by the Board of Health before using it? I don't see it in writing anywhere. Ms. Bogart - In my opinion, implications are just not strong enough. Mr. Maki - We aren't sending the Board of Health to inspect every week, so who is enforcing? Ms. Bogart - The chemicals that we were presented with are all non toxic. Attorney Whittaker - There are federal regs - FIFRA -25B that will fully protect you. Mr. Maki - So we add that to the Condition #2 final sentence.

**"At all times, all materials used on site will be FIFRA 25B compliant"**

Motion amended

*Motion to add specific language for condition 2: Mr. Sinclair*

*Second: Mr. Robinson*

*Approved: 4-1, Ms. Bogart*

*Ms. Bogart – For the record, I voted against this because I am unfamiliar with FIFRA-25B.*

*Page 3 can be signed; Page 2 will be amended and signed tomorrow.*

- Golden Fields, 59 Federal Road, Revision-ZAK Farkes, Borrego

Mr. Farkes – I have provided what was requested. In 8/2016 – a solar project was approved at 59 Federal Road. Site plan was issued and construction began. The incentive program has changed and is requiring minor modifications (4 changes)

- Down to one project
- Reduction in equipment pads from 3 to 2
- Reduction in power utility equipment (from 12 poles to 4 poles)
- Decommissioning estimates was not defined; I have done that now

My plans were provided to the Fire Department. This is taking from new projects and applying it to this project. This site is across the street from Ocean Spray – Clearing is done. Footprint is exactly the same.

Mr. Sinclair – Do we have any documentation? Mr. Farkes – Yes, it was provided on June 10.

Mr. Maki – Since Jim has only been here for two days; I would like him to have a chance to review this and the conditions. We can take a vote at our next meeting. Mr. Farkes – It was important to get this approved tonight with conditions. Mr. Sinclair – All of the changes are nothing but a positive. For me, I don't have a problem with approving the minor modification and approving the conditions at our next meeting. Mr. Walsh – Yes, the conditions can be dealt with at the next meeting.

*Motion to approve the minor modification for Borrego Solar at 59 Federal Road, with conditions being voted on at the next meeting: Mr. Sinclair  
Second: Mr. Robinson*

Discussion –

Ms. Bogart – There was quite a bit of dirt and dust down there. Could it be addressed? Mr. Farkes – Yes, and it will be.

*Approved: 4-0-1, Ms. Bogart*

#### Public Hearings:

- On the application of Bayberry Dunes, LLC, requesting a Site Plan Review pursuant to Sections 3100 of the Carver Zoning by-Law, located at North Main Street and Lillian Way in Carver, MA (Assessors Map 49, Lot 62-2) to construct 2 commercial buildings (13,200 sq. ft.). The proposed building use will be wholesale, warehouse and distribution in the General Business District.

Mr. Sinclair – Excused himself as he is an abutter.

Bob Krowel – Engineer, with David and Steven, Owners – The existing site is 63,900 sq. ft. Two buildings – 7,200 sq. ft. and 6800 sq. ft. All set back requirements are met. There will be 21 parking spaces. The site plan was presented to the Board. Peter Smith, Duxbury Construction – The two buildings will have separate infiltration systems. There is runoff from the abutting property that we are taking over. This conforms to the Storm Water policies. Mr. Robinson – These would not be attached? Mr. Krowel – No they would not be attached, traffic flow will be between buildings. Mr. Maki – As we have a new Planner, we usually have a tech review before it comes before the Board and then goes to our consulting engineers. I don't believe these have gone out to the consulting engineers, nor has it gone to the Fire Department and Building Inspector for a technical review. Mr. Krowel – The peer review was done. Mr. Maki – We will check that. Landscaping plan will be needed. What type of buildings will be put here; architectural plan? It may be too early to schedule a site visit. Mr. Krowel – If the review is received, could you forward it to us? Mr. Maki – Yes, all of the Town departments will look at this. Mr. Maki – Any questions from the audience?

- o Dagmar Ryan, 14 Lillian Way – I know that property. We would appreciate if aesthetics could be considered in your decisions. Do you know anyone interested? Mr. Maki – We still have to go through the process; we are just at the beginning. Ms. Ryan – Traffic study? Will Carver Glass building still be there? Mr. Krowel – Yes, separate driveway.

*Motion to continue the public hearing for Bayberry Dunes, LLC to the next meeting on July 23, 2019 at 7:00 PM:*

*Mr. Robinson*

*Second: Mr. Hoffman*

*Approved: (4-0-1, Mr. Sinclair)*

- On the application of NextSun Energy, LLC, requesting a Special Permit and Site Plan Review pursuant to Sections 31--, 3580.60 and 5300 of the Carver Zoning by-Law, located at 0, 340/342 Tremont Street and 65 Wareham Street, Carver, MA (Assessors Map 127, Lots 10, 12, 21) to allow the construction and operation of a dual use, large ground mounted solar photovoltaic installation (LSGMSPI) and appurtenant equipment and interconnection in accordance with the solar by-Law in a Residential / Agricultural and Industrial "A" District.

Sarah Stearns, Beals and Thomas and Ian Ward, Agricultural Consultant –

I just wanted to give you an overview tonight and maybe schedule a site visit. Adam Shumaker was unable to make it tonight so technical questions should probably wait for him. Mr. Maki – Has this gone to any other offices? Ms. Stearns – Jessie Boyle has been in communication and Fuss and O'Neil is involved. This project is a little different. These arrays will be on the bogs directly which leaves existing roadways in tact; the Fire Department is pleased with that. Jessie also provided a memo on the battery storage. With dual use, the goal is to help keep farms in operations. The cranberry industry is struggling; cranberry farmers are looking for alternatives. We want to keep the focus on agriculture. I have included a letter from the CCCGA; if you have a chance, I would recommend you read that. As a requirement for a dual use project, the farm must continue for the solar to be viable and for the incentive to continue. Mr. Robinson – This would be so that you could continue to harvest? Ms. Stearns – Yes, largely as it is today. Mr. Ward – In order to qualify for a dual use, they have to measure equipment and be able to maneuver around. There are reporting requirement annually. Ms.

Stearns – The panels are spread out further apart and are higher. We won't see these on every bog in the region; it has to meet a number of criteria. This particular group of growers are all interested in this. Ms. Stearns presented mapping of the proposed project area. This is three parcels and three owners for about 60 acres. No tree clearing will be done. The filing in front of you follows the by-Law. The adjacent land area is significant wetland systems and additional cranberry bog acreage. We are proposing a solid fence with vegetation along Tremont Street – This is the only area visible. F&O had very few comments.

Mr. Robinson – Do we already have by-Laws for height restrictions? Ms. Stearns – I will double check that. Mr. Robinson – That might come up. Mr. Maki – Everything will be looked at during the Peer Review. Ms. Stearns – I have spoken with the PE at Fuss and O'Neil and he had very few comments. Mr. Maki – We will do a site visit and another meeting after everyone has looked at this.

Mr. Maki - Any audience members?

James Dahill – 43 Myles Standish Drive - I am an abutter. This project started 9 months ago. After reviewing the maps, I had some concerns. I called Nextsun with no response. I called Ms. Stearns and left two message with no return calls. I then wrote the grower and received a call from Nextsun. They said they would call after vacation. I've been here for 30 years; I am not in the cranberry business; I am in the helicopter business. I tried to show them the problem I have with this when I took him up in the helicopter. When I went for my special permit, it took 2 years to get approved. Now all these new business are here, limiting where I can take off and land (DECAS, Propane, etc.). They are putting 20 acres of an electrical field. I wouldn't survive if I had to land there. I need some room for my approach. I took Stephen up to the airport and explained to him the impact on my business. This is a safety issue to me; you don't want to land or take off over a solar grid. I am encroached by what the town has done. I tried to negotiate. I have plans from the FAA out of Fortworth, Texas. I showed them the plans with the safety buffer. There was a lot of issues with the solar grid at the airport. Glare coming off the array would be huge. Mr. Robinson – The fact that this would affect your business; they could work with you? Mr. Dahill – I've tried! If I have to move to the airport, that's a whole new expense for me. Mr. Robinson – I hear everything you are saying, we can try to work together to allow you to do your business safely. Mr. Dahill – These panels are 15' high. Mr. Robinson – You want to be able to run your business safely. Mr. Maki – We will take a look at this. Ms. Stearns – I know that Adam Schumaker has met with Mr. Dahill, but I have not and don't want to speak out of turn. It would be helpful on our site visit for the board members to look at those areas. Mr. Maki – We would like to do a site visit with boundaries marked. Ms. Stearns – It's pretty obvious when you see it. I have a smaller plan set for utilizing in the field. Mr. Hoffman – It would be helpful to have some type of visual for the 15' height of the panels.

Mr. Maki - We will do a site visit on Monday, 7/15 at 5:00 PM. Ms. Stearns – We can meet at The Berry Guys. Our client is out of town so we will check with him to see if he can be there.

*Motion to continue the public hearing for Nextsun Energy, LLC, Tremont Street and Wareham street to July 23,  
2019 at 7:00 PM: Mr. Robinson  
Second: Mr. Sinclair  
Approved: Unanimous (5-0)*

- On the application of NextSun Energy, LLC, requesting a Special Permit and Site Plan Review pursuant to Sections 3100, 2580.60 and 5300 of the Carver Zoning by-Law, located at 0, 0R, 60 Rochester Road, Carver, MA (Assessor's Map 92, Lots 14, 15, 16, 17, 20, 22) to allow the construction and operation of a dual use, large ground mounted Solar Photovoltaic installation (LSGMSPI) and appurtenant equipment and interconnection in accordance with the solar by-Law in a Residential / Agricultural and Industrial "A" District.

Mr. Walsh – There is a request to continue but there is no open public hearing. The applicant agreed to Withdraw Without Prejudice and resubmit. The applicant will only have to pay for a new public hearing notification in the paper. We need a letter from the applicant requesting the withdrawal. Ms. Stearns indicated that she would take care of that.

#### Administrative:

Jack Williams – High Street – Extension on Special Permit –

Mr. Williams – I am asking for an extension on the Gilbert Estates. I have my finances in place and want to get going. Mr. Sinclair – When Jack was coming in for previous permits we discussed this. Knowing his application was going to expire, I mentioned that we have in the past extended permits, due to the recession. Nothing has changed with the plan. Mr. Maki – The lots still comply? Mr. Williams – Yes, it's a Conservation Subdivision.

*Motion to approve the extension of a special permit for the definitive sub division plan for Gilbert Estates off High Street:*

*Mr. Sinclair*

*Second: Mr. Hoffman*

*Approved: 4-0-1, Ms. Bogart*

#### Other Business

#### **Planning Board Member Notes:**

- Mr. Sinclair – Happy to have a new planner on board! We have a lot going on!
- Ms. Bogart – The first sign permit I was involved in was Fresh and Friendly Seafood! It's finally open! They are getting rave reviews!
- Mr. Robinson –
- Mr. Maki –
- Mr. Hoffman – Welcome aboard Jim!

#### *Planning Director Notes:*

We have signatures necessary before anyone can leave.

*Minutes of May 28, 2019 and June 11, 2019-*

Tabled until the next meeting as Jen didn't receive

*Next Meeting date:*

Planning Board Meeting, July 9, 2019



Our next meeting will be on July 23, 2019 at 7:00 PM

***Adjournment:***

*Motion made to adjourn at 9:44 8:01 PM: Mr. SinclairSinclair*

*Second: Mr. Robinson*

*Approved: Unanimous (5-0)*