

**TOWN OF HOPKINTON  
PLANNING BOARD**

**Wednesday, May 6, 2020  
7:00 p.m.  
Hopkinton Town Hall  
1 Town House Road, Hopkinton, RI 02833**

**CALL TO ORDER:**

Chairman Alfred DiOrio called the May 6, 2020 Hopkinton Planning Board meeting to order at 7:08 p.m.

**MEMBERS PRESENT:**

As the meeting was conducted remotely, Chairman Alfred DiOrio, Town Planner Jim Lamphere, and Senior Planning Clerk Talia Jalette were the only people present in the Chamber. Carolyn Light, Ronald Prellwitz, Keith Lindelow, and Emily Shumchenia were present via Zoom. It was Ms. Shumchenia's first meeting as a full member of the Planning Board, following the resignation of former Vice Chair Amy Williams, which had been accepted by the Town Council at their April 6, 2020 meeting.

Also present via Zoom were: Sharon Davis, Hopkinton Town Council Liaison; Attorneys Sean Clough and Kevin McAllister, and Deb O'Leary, the Hopkinton Conservation Commission Liaison. Johnny Pennypacker, the previous Hopkinton Conservation Commission Liaison, also submitted his resignation, which was accepted by the Town Council at their April 6, 2020 meeting.

**SOLICITOR'S REPORT:**

Town Solicitor Kevin McAllister spoke before the Board to state that, per the Town Council discussion of May 4, the matter regarding Mr. DiOrio had been resolved.

Mr. McAllister: "I'm happy to announce, to advise everybody, that the matter that was brought to the Town Council by myself involving the Chairman was resolved on Monday night at the Town Council meeting, so everything is, it's fine. He's the Chair and member of the Planning Board. I just want to say that was resolved to everybody's satisfaction."

**PLANNING BOARD ELECTION OF OFFICERS:**

Following Ms. Williams' resignation, a new Planning Board Vice Chair had to be elected. The Board was also in need of a new Planning Board Secretary.

**MS. LIGHT NOMINATED MR. PRELLWITZ FOR THE POSITION OF VICE CHAIR. MR. PRELLWITZ NOMINATED MS. LIGHT FOR THE POSITION OF**

SECRETARY. TO EXPEDITE THE PROCESS, AS THERE WERE NOT ANY FURTHER NOMINATIONS OR OBJECTIONS, A ROLL CALL VOTE WAS TAKEN TO ELECT BOTH PARTIES.

MR. DIORIO: YES  
MR. PRELLWITZ: YES  
MS. LIGHT: YES  
MR. LINDELOW: YES  
MS. SHUMCHENIA: YES

MR. PRELLWITZ AND MS. LIGHT WERE ELECTED TO THE POSITIONS OF VICE CHAIR AND SECRETARY, RESPECTIVELY.

#### **APPROVAL OF MINUTES:**

A MOTION WAS MADE BY MR. PRELLWITZ, AND SECONDED BY MS. LIGHT, TO APPROVE THE MINUTES FROM THE MARCH 3, 2020 PLANNING BOARD MEETING.

IN FAVOR: DIORIO, PRELLWITZ, LIGHT, LINDELOW, SHUMCHENIA  
ABSTAIN: NONE  
OPPOSED: NONE

MOTION PASSED 5-0.

#### **OLD BUSINESS:**

**Pre-application Meeting – Comprehensive Permit – Brushy Brook – Plat 32, Lots 1 through 71, Dye Hill Road, LR 6-A Owners, LLC, applicant. Applicant discussion with the Planning Board relative to the Master Plan Decision of November 23, 2010 and their upcoming Preliminary Plan Submission.**

William Landry, co-counsel for the applicant from the outset of the project in 2010, presented before the Board.

Mr. Landry: “The first of business, and thank you, for permitting us to proceed this way, is a request for your input on whether the lots that are developed for this – the one hundred and forty lots that will be a part of the Preliminary submission – should be serviced by a community septic system – one or more community septic systems – or individual systems. And while we are not lobbying for one or the other, Eric Prive, who I will turn this presentation over to in a moment, from DiPrete Engineering, has provided the Board with a letter, that I hope you have, that he’ll summarize, concisely, of the reasons why we think that individual septic would be most appropriate for a project that is now about half the size of what was proposed originally. So, unless there are any questions of me, I’d like Eric to go ahead and do that.”

Mr. Prive, a registered professional engineer with DiPrete Engineering, continued the presentation.

Mr. Prive: “What we wanted to do was, well - we had, approximately a year ago, come and done an overview of this project, as a lot of the Planning Board members, at the time, hadn’t seen the original application., so we wanted to give an overview of the updated layout for the all one hundred and forty units in the subdivision. As part of that, we were told, we were advised afterwards, that the question of whether or not community septic systems versus individual septic systems was fully – which method – in the consensus of the Planning Board members felt at that time. The original Master Plan approval from November 23, 2010 did have a condition that the subdivision is designed with community, public, wells, and community septic systems. The applicant has no issues with the community public wells, and agrees that they would sit well for this type of development. We wanted to have a little more discussion on the septic end of things. We would also note that the, the original density, as you may recall or you may not recall, was proposed as two hundred and seventy units, and that’s when the conditions were also set. They included, to wit, a reduction in the density, so the latest layout has more reduction to one hundred and forty units. So, it’s one hundred and twelve lots but one hundred and forty units, which is a density of 2.5 acres per unit, so, greater than the 80,000 in the R-80 zone in your Town. And, given the reduction in the density, we just wanted to talk about what the individual septic systems were the preferred method, which is our opinion, that they are a preferred method for this size and density. Also, as a follow-up from the last meeting, when we, about a year ago, again, was, we held a meeting at DEM – the Department of Environmental Management’s offices – and that was on May 14, 2019, and we met with members of both the Freshwater Wetlands Program and also the On-Site Wastewater Treatment Program about the septic systems, and they had agreed that smaller, privately owned septic systems on these lots would be the preferred method for this type of size and density of the subdivision. And we put together in this memo, kind of seven bullet points, or, excuse me, six bullet points, and it’s the reasons why we believe that the individual would be preferred for this development. We wanted to get some more feedback and direction from the Planning Board, before we finalize and went forward with our design. We are moving, and going forward with, all of the Preliminary Plan design as of now, and the septic is kind of one of the items we’re doing concurrently with this right now.”

He then began to delineate the six points from his memo to the Planning Board, dated February 24, 2020.

Mr. Prive: “Point number one, flow dispersion. Having the individual septic systems, smaller systems in more remote locations, spread throughout the entire parcel, is typically preferred if it is more evenly dispersed over the whole site, as opposed to when you have those larger, centralized area – you’re putting in higher flows and concentrations of nutrients into individual spots, so, areas that may not be able to treat as well and become a hot spot for certain issues. Point number two was for leach field siting. So, when you’re putting in, when you’re siting, and when I say siting, it’s the placement or location on each individual lot, so with leach field siting, the individuals, we typically can place them

because they're smaller and they're just designed for each individual home. Big designs, the smallest, the footprint is smaller, and can more easily marry and go with the topo – the topography of the land. So, the separations and amount of flow is more appropriate for each lot. Typically, when you have a community system, it ends up for a much larger footprint, 'cause you're servicing larger amounts [of people], approximately a third of the development, so about forty lots or so, forty units or so that you're designing for. That footprint takes up a larger space in the topography and ends up creating a large fill to make sure you have the proper separations to put around the water table, so it's an important siting issue, as well as creating large amounts of fill that are not as natural to the topography of the land as they would be. There are certain systems that can, can contour the land better, but in the same instance, the smaller, compact ones on each lot tend to be better for siting on these as well. Homeowner responsibility is the third point that we had added. It's been our experience that the individual septic systems have more responsibility to the homeowners, so it kind of, so it goes with the mentality of, 'This is my septic system; if I throw something down my toilet or down my drain, I'm responsible for it. I could clog my septic tank, and I would have to do my repairs for it.' Whereas, a community system tends to be treated more like a public system, almost like just a pure public sewer, a gravity sewer, that you would see in a city or more urban setting, where people don't tend to take as much responsibility of not their specific system, it ends up going to a more centralized pipeline. So, there tends to be less responsibility, that we've seen from our experience. The fourth point was operations and maintenance. The operations and maintenance are very clear when it's on each lot. The homeowner's responsible for doing their own maintenance. Whereas, on a community system, that can be a little more muddy, and a little more gray. Although there will be a Homeowners' Association in place, there's difficulties, like with managing that at times, when it comes down to maintenance being needed, and possibly homeowners saying, 'I didn't throw anything down mine, why should I have to pay for this?' So it tends to be a little more difficulty on the community end of things. Point number five are the repair impacts as well. So, if a system were to go offline for whatever reason, if they needed repairs, while we don't anticipate it would need to be done, it could happen, and that would be taking more people offline, again, approximately forty units, if it was per the design where we have it, as three separate centralized areas, and that was what we had shown. That would take off approximately forty unit or so each time, and the repair impacts would be more substantial than if it was a single, a single lot that needed to have repairs, which it would obviously just be that one homeowner. And the last one, the last point, number six, was DEM's OWTS regulations. The regulations call for very specific siting and allowances for nutrient load-in, and what densities would be allowed. They allow up to, and I'm just going to summarize because there's a lot of numbers on here, but they allow up to a six-bedroom home on a half-acre lot when it uses the denitrifying technology. So, these systems are proposed, and were required to be denitrifying, pre-treatment technologies as well, so it allows for up to six beds. We're only proposing threes and fours beds throughout the site, and you can see that from the site plans that we had provided as well, so three-bedrooms and four-bedrooms. It would just, approximately half, it ends up being about half of what would be allowed, given the larger lot sizes, our average lot sizes are 32,000 sq. ft., with a minimum of 30,000, so it ends up being approximately half of the nutrient loading. One last point on that as well: there's also a

subsection in there that allows for nutrient credit lands, and that allows for land that's designated as not having any additional nutrients as part of the overall parcel. That's important because this proposal has two hundred and sixty-eight acres of dedicated open space, which is approximately seventy-five percent of the site. So, that is not even taking into account any nitrogen credit land in particular. So, those were the points that we wanted to talk about, and why we felt it was important, why we felt it was our professional opinion that individual septic systems would be the preferred design for this subdivision. We also, from environmental perspectives, I will say, that from a cost perspective, this is not about a cost perspective, as a matter of fact, it may actually be a more costly method to have individual septic systems than to have a community system. This also is supported by DEM Wetlands and the OWTS program, that was also said tonight, so that was kind of my summary. I would be glad to answer anything, or would love any feedback that the Planning Board members have. As Attorney Landry did state at the beginning, it's our preference to use this, to use the individual septic designs, but we'll certainly yield to the discretion of the Planning Board if community septic is that way to continue to proceed, then so be it, and we'll go forward as such."

Mr. DiOrio then opened up the discussion to Planning Board members, the Planner, the Conservation Commission Liaison, and all others in attendance.

Mr. Prellwitz stated that he agreed with the individual septic system design, and based his support on "fifty years in construction". He also said that "this is to my liking a lot more than the site-wide, multiple home septic systems." Ms. Light said that she "counted more than twenty-six lots that are under 30,000 sq. ft., so I think that needs to be taken into consideration." She stated that while "your average lot size might be 32 [thousand sq. ft.], but not when we're looking at the plans." She then continued.

Ms. Light: "I'd also like to make a comment, that the original proposed project of two hundred and seventy units, I don't think there should be any credit given to you for that, because I believe that it was a Court that made the decision, that that was too big, and that it had to be downsized. After reading the information that I've been provided, and the information that I researched myself, and the decision of the Board back in 2010, I don't have any wiggle room in my thought. I think the community program is the one that we need to follow through on. And, as far as the cost to the homeowners and whatnot, you have a Homeowners Association, that this is going to take responsibility for the maintenance of everything that's going on in there, including the private road. And a public system, the way these systems are designed, supports the kind of traffic that we're talking about, otherwise it wouldn't have been a recommendation. So, I think it's fair to say that the original intention of the Planning Board was pretty accurate, and I'm inclined to agree with the previous decision. That's all, thank you."

Ms. Shumchenia agreed with Ms. Light, and stated that she was "also inclined to agree with the decision, and original plan that the Planning Board approved." She continued.

Ms. Shumchenia: “It’s my understanding, from reading the materials, that they asked for the opinion of multiple experts to weigh in on this particular issue, and I see no reason to deviate from that original plan. Thanks.”

Mr. Lindelow also weighed in.

Mr. Lindelow: “I agree with Ron to a certain extent about the individual ones, but I’d go back and support the original decision and wait to hear some public input.”

Mr. DiOrio then expressed his opinions on the issue.

Mr. DiOrio: “And my opinion would also be that the original decision should be adhered to. While I appreciate the comments that have been made, many of the topics – siting, the homeowner responsibility, the O+M – quite candidly, these are not truly the Town’s concerns. These are almost design parameters that you folks are gonna to have to wrestle with. Certainly, bringing DEM in as a purported ally is probably not going to carry too much weight here. DEM is certainly not working in the best interests of my community, so, they have their checklist, you go through their checklist, you get your permit. That’s kind of black and white. So, I don’t put a lot of confidence in what they have to say. So, anyway, my summary is the original decision should stand.”

Mr. Lamphere, the Town Planner, then provided his comments.

Mr. Lamphere: “The only thing that I would like to say is that the original decision there was reviewed previously by GZA – before I could really opine on this, I’d have to read the commentary by GZA Geoenvironmental, and do my homework. I have not done so for this meeting, so I’m really not prepared, but I can say that the suggestion for community water and community septic systems didn’t just come out of thin air. It came, it came with the guidance of a consultant, and I don’t have right in my head, tonight, what their reasoning was, so before I would deviate from the original decision, I would like to at least review what GZA has to say on that, so that’s my comment.”

Ms. O’Leary, the Hopkinton Conservation Commission Liaison, also stated her opinions.

Ms. O’Leary: “Well, I’m glad Jim brought up the report that was made in the initial plan, that there were issues with this site, and our concerns were slope, wetlands, and concentrating all of those houses in one place, and have everyone with individual septic systems – it’s still very clustered together. And I don’t see the difference between clustering all those houses together and giving them individual septic systems, denitrification systems – yeah, I hate talking on the phone - but it’s just the original plan, we had good reasons for it, and I don’t think anything on that site has changed, and therefore, I would recommend that we go with the original plans also.”

Sharon Davis, the Town Council Liaison, called in in regards to if there was an update on some of the questions that had been posed at previous meetings, like “what constitutes an affordable unit, whether it could be a condo versus an individual house”, as there had

been some differences of opinion during the last discussion. Mr. DiOrio stated that while Ms. Davis was correct in that there had been much discussion in regards to that issue, he was “not really prepared to delve into that one this evening”, as it “was not really an agenda item here.” He continued, stating that he was “sure there would be ample opportunity to discuss those other points, but I’m just not sure if that’s this evening.”

Carol Desrosiers, of Pleasant View Drive, spoke during the time for public comment.

Ms. Desrosiers: “I just wanted to reiterate that everything that I’ve read and studied, I really believe we should follow the original conditions. I believe something was noted by the applicant’s representative today that the original communal septic was based on the larger number of houses, and I beg to differ on that, because right in the conditions, the first condition was bringing the number of units down to 145, maximum, and it was within that same document that put through the communal septic and communal well. One of my additional concerns would be around pushing that maintenance to the individual homeowners, because there is, for instance, there’ll be an HOA for a communal system, but with individual systems, there’s individual electric charges to the homeowners, due to the pumps, etcetera, that are in the septic system. If their individual system has to be replaced it is much more expensive, and then we would have to have some mechanism in place to monitor that each of the individual homeowners are doing the proper annual maintenance on those systems, where I think that burden of ensuring alignments to those houses, a required monitoring and maintenance would be much easier with a communal septic than going after each of the individual homeowners. So, I think on this topic, you know, again, we had GZA, we had URI in the past, a lot of time and energy spent on this topic back in 2010, we shouldn’t have to go back and revisit, get expert opinions from them again, because we had them back in 2010. Thanks.”

Ms. Davis weighed in again, stating that “someone should verify if Brushy Brook Road is really twenty-three feet wide”, and wondered if it “truly has been expanded to twenty-three feet wide”.

Mr. DiOrio asked the applicant if they had received the guidance that they had visited the Board for, which they stated that they had received “the feedback they were looking for.”

*The Planning Board held a discussion and informally exchanged ideas with the applicant, but no vote was taken.*

**Annual update discussion in connection with extension of Master Plan Decision of November 23, 2010 – Comprehensive Permit – Brushy Brook – Plat 32, Lots 1 through 71, Dye Hill Road, LR 6-A Owners, LLC, applicant.**

Mr. Landry provided an update in regards to this discussion.

Mr. Landry: “Bill Landry speaking – this will be a short update. Just to set the stage, we’re, we’re coming upon the expiration of the first of two one-year extension periods for the Master Plan decision issued back in 2010. That the time periods associated with

that Master Plan approval were to hold until June 30, 2017. There was an initial two-year period, subject to two one-year extensions that are, essentially, of-right extensions. We exercised the first one around this time last year, and had this type of meeting, and we exercised the second one by letter dated March 24, and the statute talks about an annual update occurring in connection with these extensions, so we can tell you what we're doing and what's going to happen in the upcoming year. So, that we, we - the answer to that is we are very close to making the formal decision to the Rhode Island Department of Environmental Management - wetlands, storm water, septic, common well system, and I - we were - hoping to have your input, which we now have, on whether we're going to go with common septic or individual septic. That's an important part of the plans, so the plans will be finalized and submitted to DEM based on the community septic system. Their review will probably take three or four months - it's hard to predict with any certainty, but we do expect to be making a Preliminary Plan submission before we actually have their input. You know, we're hopeful that the Preliminary Plan process will be, will include their input as it, as it's given, but given the time to review the Plans, anyway, and get the Public Hearing scheduled, we're in all likelihood going to file for Preliminary before we have our approvals from DEM. But we'll have a fully engineered plan that we are submitting to the Planning Board. I'll remind you that, in comprehensive permits, under the Low- and Moderate-Income Housing Act, the State-level approvals are required at the Final Plan stage, as opposed to the Preliminary Plan stage. We're going to try to get them to you at some point during the Preliminary Plan stage, because, you know, we think they're important, but it should not be an impediment to our at least getting that Preliminary Plan process underway, so that will be, that will be happening in, within the next few months. Hopefully, by then, we'll be on our feet, and not on the phone when we present."

Neither the Planning Board, nor the Planner, or any members of the public provided any commentary on this agenda item.

*The Planning Board held a discussion and informally exchanged ideas with the applicant, but no vote was taken.*

## **NEW BUSINESS:**

### **Pre-Application – Development Plan Review — Photovoltaic Solar Energy System – Revity Energy, LLC – Main Street at Route 95 Exit 1 and 46 Gray Lane – AP 7 Lots 64 & 65.**

Attorney Kerin Browning presented on behalf of the applicant. She stated that the project, which is near Frontier Road, features the same applicant whose project is under consideration at that location. The project is proposed at 8.25 megawatts, A/C. The property is zoned Commercial, "so the solar use is allowed by-right", therefore, a zone change would not be required. The project "requires DPR [Development Plan Review], similar to the applicant's proposed project on Frontier Road." David Russo, a professional engineer from DiPrete Engineering, the project's site engineer, was also present to answer questions posed by the Board.

Mr. Russo gave a brief overview of the project. He explained that Lot 64 is located on the eastern side of the property, while Lot 65 is located on the western one. The total area of the site is 31.5 acres. It has frontage along Main Street as well as Gray Lane. Part of the property runs along Interstate Route 95, off of Exit 1. Some of the surrounding properties are zoned Commercial, while others are zoned Manufacturing. If constructed, it would abut another newly built solar array. The wetlands on the property have been located by National Resource Services. At the time of the meeting, a survey had not been conducted on the property. As such, the maps depicted “the best available information” from the current assessor’s maps in Town.

The western portion of the property (Lot 65) has “previously been cleared as a farm field or farm activity, or field activity.” Mr. Russo stated that the parcel “has not been maintained as much recently, so you do have some newer growth in that area.” The eastern portion of the property (Lot 64) “has vegetation on it – it’s a fully vegetated property.” There are currently two historic cemeteries on-site, and “one is located on the north end of the lot”, while the other “is located on the south end of the lot, near the wetland.” There is a third cemetery, “to the east, near the intersection of Frontier Road”, which is “technically not on our [the applicant’s] property, but it is abutting our property.” The cemetery on the north end is Hopkinton Historic Cemetery #48, the Reynolds Johnson Lot. The cemetery to the south is Hopkinton Historic Cemetery #25, the Wells Lot Cemetery. The cemetery that is “technically not on our property” is an Unknown Lot, identified as Hopkinton Historical Cemetery #67.

Wetland flags have been shown “with triangles, and all the proper labels”, and the “buffers in the blue lines on our plans.” The high point of the site “is located in approximately the southeastern area, and it has a consistent slope from that point to Gray Lane, and then slopes down towards Maine Street.” It will be a ground-mounted solar facility, and the panels will be “approximately three feet off the ground” at the front of them, and “the back of them will be less than twelve feet” from the ground. The project “meets all of the dimensional setback requirements”, and the applicant is not requesting any variances. They are not proposing any work in the wetland areas or the buffers. A roadway system has been proposed, with access off of Main Street, and an additional access point off of Gray Lane. A seven-foot high fence will surround the array, “which has been lifted off of the ground”. It will be gated.

Access to the cemeteries will be provided, and the applicant has “provided the necessary buffers”. The array “will be less than 75% of the site”, with the fenced in area at approximately 23.5 acres. The interconnection is proposed off of Main Street, though the location is “still being worked on with National Grid”. There “will be a few above-ground utility poles in that location.” The utilities will run underground to service the site. Mr. Russo stated that there would be “normal construction traffic”, but after construction, workers would only come to the site to maintain the array, or conduct drainage or vegetation-abatement work.

The project requires a DEM Preliminary Determination Approval, due to the presence of wetlands on the site. DEM “will review that [the project] for any potential drainage

impacts to the wetlands.” It will also require a Physical Alteration Permit from the Department of Transportation so the road may be built off of Main Street. The applicant will provide landscape plans for buffering and “other reports as required”, as well as a noise study. There will also be a decommissioning estimate prepared “in the future”.

Mr. Prellwitz said that it looked like the applicant had done their “due diligence, gotten all of their ducks in a row, in being commercially zoned already”, and that “there were not a lot of things that I have questions about.” Ms. Light asked the applicant if they “were familiar with all of the recommendations and comments from the Planning Board regarding the project” on Frontier Road, and said that “the same would apply here”, especially in regards to the buffering of the project. She also said that she believed “the panels need to be pulled back”, and continued.

Ms. Light: “There has to be appropriate footage, more than fifty feet, so that the visual impact, completely around the project, except where it abuts the other solar project, that, that visual, that impact on Gray Lane, on 95, on Main Street, those things need to be protected.”

Mr. Lindelow said he did not have any questions or comments at that point, but that “there seems to be a lot of approvals that are needed from State agencies, in addition to all the things that Carolyn mentioned with the other project.” He said he was also interested in hearing public comments.

Ms. Shumchenia wanted to “echo” the “same exact concerns” raised by Ms. Light and Mr. Lindelow, and stated that the applicant “had an advantage because you’ve already spoken to us about the other project”, referring to the Planning Board meeting where the applicant had presented their proposed project on Frontier Road.

Mr. DiOrio stated that he did not want to see the project “from any of our vistas.” He continued.

Mr. DiOrio: “I don’t want to see it from Main Street, on Route 3, sorry, and I certainly don’t want to see it from 95. So, I’ve marked on my plan – pulling back the panels along the 95 corridor – to a point southerly of the cemetery, that’s on the south side of 95, and running a line parallel with the Interstate. That’s gotta be at least in the order of one hundred feet. On the easterly side, I’m suggesting the same thing. Take the wetland feature that you have identified, and strike a line that runs parallel to Route 3, and pull all those panels back. That area needs to be buffered and protected so that we screen this facility from the roadways.”

He also commented on the cemetery situation.

Mr. DiOrio: “You have answered my question about access to the cemeteries. I’m not familiar with the parties that might have legal rights to pass back and forth to these entities, but I’m going to presume that as your project unfolds, you will allow adequate and legal access for those parties.”

He also commented on the topographic character of the project area.

Mr. DiOrio: “And lastly, I’m somewhat familiar with this site. There’s some pretty significant topographic relief on this property. Now, I read through the report and, if I’m not mistaken, someone represented that the panels are going to follow the contour of the ground, so I want to caution you, that, in your mind’s eye, if you have a vision of anything that resembles the facility on the Airport Connector in Warwick, make that go away, because that’s not what I envision here. So, we’re going to need to see a great deal of detail in terms of vertical vision, as to how you’re going to erect these panels so it doesn’t look like a third grader got out here with an erector set.”

Mr. Lamphere said that he would like to see some comments from the Town’s Zoning Official in regards to the project and comments from the Fire District. He did not know if the Fire personnel would find that the access to be adequate. He also recommended that the Planning Board request a peer review of the project conducted by the Town’s engineer, Crossman Engineering.

Ms. O’Leary stated that the Conservation Commission’s concerns revolved around protecting and preserving the wetlands, and how many trees were going to be removed from the eastern portion of the project area. She agreed with the Planner in recommending that Crossman review the site plans as well.

Ms. O’Leary: “Even though it’s zoned properly, it’s just another really big, ugly solar project. Same difference.”

Barbara Capalbo called in to remind the Planning Board that the cemeteries on the proposed project grounds were historic ones, and that “the Hopkinton Historic Association would have information about them and if anyone takes care of them.” She suggested that the applicant reach out to the relevant Association members to gain their input into “how to take care of those cemeteries.”

A caller from Maxson Hill Road asked the Planning Board to remember their road as they considered the project. Suzy Kasabuski called in to say that she was worried that in ten to fifteen years, “when the technology becomes obsolete”, residents will “be left with nothing but eyesores.” She wanted to know what the applicant planned to do “once these panels have outlived their longevity.” Ralph Palumbo, of Revity Energy, responded to Ms. Kasabuski’s question.

Mr. Palumbo: “The equipment we use has a life of thirty years – twenty-five to thirty years of warranty life, so we fully expect to have continuous use of it. If new and improved equipment comes along, we always have the option of repowering the system, but, as I think, it’s well-vetted that when this system has turned out its life, there’s a decommissioning bond, with an escrow in place, with a specific decommissioning process that the Town negotiates with the developer for each project, and we’ll abide by that process, and the end result of that process is to remove all the solar equipment and have the land revegetated at that point in time.”

Ms. Browning said that she was looking forward to seeing the project develop, and that the applicant had received the insight that they had sought. Mr. Palumbo thanked the Planning Board for “evolving in this process”. He also stated that he was actually involved with the solar project Mr. DiOrio had critiqued earlier in the meeting at the Airport Connector in Warwick. He asked Mr. DiOrio to expand upon what he did not like about the project. Mr. DiOrio said that his opinions were based on what he viewed driving by the site, and that he had not seen the application, nor had he walked the site. He said that it looked “like it had been jammed full of panels at varying elevations”, and that he found it to be “very disturbing to the eye.” He also said that “it looks horrible”, and that he “was sorry to hear that you were the developer there because I think you can do better.” Mr. DiOrio then said that there were “several other installations in Town, by the way, that suffer from this, this construction technique, of wavy panels, varying elevations.” He continued, stating that he would “rather not have that kind of project here in this Town.” Mr. Palumbo responded that “every project has its specific challenges”, and that the project that Mr. DiOrio found disturbing had been constructed partially on a brownfield, and partially on a landfill, and that they had spent “a significant amount of money removing toxic waste” from a former manufacturing site. He stated that the project had been “restricted by a very comprehensive, very complex, remedial action work plan from the DEM Waste Division.” Mr. Palumbo said that he knew that Mr. DiOrio had much experience, and that he loved his Town, which would encourage him to take his advice and apply it to the project. Mr. DiOrio replied that the project was on a complicated site, and that “it’s going to require attention.”

The Board and the applicant then discussed how the project would move forward. Mr. McAllister and Ms. Browning were in agreement that the project would have to move forward by following the Development Plan Review avenue. Ms. Shumchenia explained the difference between the Development Plan Review process and the Major Land Development process, and spoke in favor of melding aspects of the two processes to provide greater public input into the project. Mr. DiOrio agreed, and stated that he was “certain that we have the latitude to involve the public to a significant degree under the Development Plan Review Ordinance.”

The meeting was interrupted by the sudden entrance of Patrick Kane. Kane had received a notice from the applicant in regards to a different project that he had proposed in Town, which would abut his property that had been slated for the agenda, but had been removed at the last minute. He was directed to leave by the Senior Planning Clerk, who explained to him that members of the public were not allowed in the Chamber, and that he would have to call in to the meeting from his vehicle, which was parked outside. Mr. DiOrio directed the applicant to address the confusion. Ms. Browning explained that the notice Mr. Kane had received had been a courtesy from their office as they had “initially hoped that the Frontier Road project would be on the agenda this evening”, which had caused them to supply notices to abutters “out of an abundance of caution.”

*The Planning Board held a discussion and informally exchanged ideas with the applicant, but no vote was taken.*

**Preliminary Plan – 2-Lot Minor Subdivision – AP 10, Lot 38, 110 North Road. Ryan M. & Natascha O. Dower, applicants.**

Ryan Dower called in with his Father-in-Law, Robert Solon, who he is building a house for. Mr. Solon explained the project.

Mr. Solon: “My wife and I are in our late fifties, we’ve lived down here for four years now, on 85 High Street in Ashaway. We’re looking to just build a senior, our senior living house, a single-level, U-shaped ranch. Originally, the property was two parcels, and had two separate tax bills, and it was molded back into one, I believe, back in 2015. The piece of land we’re looking to build on is two and a half acres. The house approximately one hundred and seventy-five feet setback from the roadway, with compliant setbacks on the sides and rear as well. We already have an approved septic system from the DEM files, and we’re hoping that tonight, that we can move forward with the Administrative Subdivision. We have approximately about one hundred and twenty, one hundred feet of trees between North Road and where the house will go, and those will stay there. The only trees cut will be for the driveway that will go in. So, that’s it. And, I promise, no solar panels.”

Mr. Prellwitz said that “everything seems to be in compliance”. Ms. Light didn’t have any questions or comments. Mr. Lindelow did not have questions or comments, but said that he “liked the project.” Ms. Shumchenia said “same here.” Mr. DiOrio asked Mr. Lamphere if they had “been convinced by this mapping that adequate frontage exists – not only for the proposed Lot II, but for the remaining twenty-acre pasture”, as the surveyor categorized “his Class One Survey only for Lot II”, and he wanted to “make sure we’re not creating a lot with substandard frontage.” Mr. Lamphere agreed to clarify the frontage when the Final Plan would be presented. Mr. Solon stated that their surveyor had assured them that they had enough frontage, so Mr. DiOrio recommended that their surveyor discuss it with the Planner. Mr. DiOrio also asked the applicant to refrain from cutting the vegetation from the front lot line to the proposed home, which they agreed to do.

**A MOTION TO APPROVE WAS MADE BY MR. LINDELOW BASED ON THE FOLLOWING CONDITIONS:**

**EACH SUBDIVISION SHALL BE CONSISTENT WITH THE REQUIREMENTS OF THE HOPKINTON COMPREHENSIVE COMMUNITY PLAN AND/OR SATISFACTORILY ADDRESS THE ISSUE WHERE THEY MAY BE INCONSISTENCIES;**

**EACH LOT IN THE SUBDIVISION SHALL CONFORM TO THE STANDARDS AND PROVISIONS OF THE HOPKINTON ZONING ORDINANCE;**

THERE WILL BE NO NEGATIVE ENVIRONMENTAL IMPACTS FOR THE PROPOSED DEVELOPMENT AS SHOWN ON THE FINAL PLAN WITH ALL REQUIRED CONDITIONS OF APPROVAL;

THE SUBDIVISION AS PROPOSED WILL NOT RESULT IN THE CREATION OF INDIVIDUAL LOTS WITH SUCH PHYSICAL CONSTRAINTS TO DEVELOPMENT THAT BUILDING ON THOSE LOTS ACCORDING TO THE PERTINENT REGULATIONS AND BUILDING STANDARDS WOULD BE IMPRACTICAL;

ALL PROPOSED LAND DEVELOPMENT AND ALL SUBDIVISION LOTS SHALL HAVE ADEQUATE AND PERMANENT LEGAL ACCESS TO A PUBLIC STREET;

EACH SUBDIVISION SHALL PROVIDE FOR SAFE CIRCULATION OF PEDESTRIAN AND VEHICULAR TRAFFIC FOR SURFACE WATER RUNOFF CONTROL, FOR SUITABLE BUILDING SITES, AND FOR PRESERVATION OF NATURAL, HISTORICAL, OR CULTURAL FEATURES THAT CONTRIBUTE TO THE ATTRACTIVENESS OF THE COMMUNITY;

TO DESIGN THE LOCATION OF STREETS, BUILDING LOTS, UTILITIES, DRAINAGE IMPROVEMENTS AND OTHER IMPROVEMENTS IN EACH SUBDIVISION SO TO MINIMIZE FLOODING AND SOIL EROSION;

AND, FURTHERMORE, WE LEAVE THIS TO THE TOWN PLANNER FOR FINAL APPROVAL.

IT WAS SECONDED BY MR. PRELLWITZ.

A ROLL CALL VOTE WAS CONDUCTED.

MR. DIORIO: YES

MR. PRELLWITZ: YES

MS. LIGHT: YES

MS. SHUMCHENIA: YES

MR. LINDELOW: YES

MOTION PASSED, 5-0.

**Pre-Application – Development Plan Review – Photovoltaic Solar Energy System – 40 Maxson Hill Road – AP 4, Lot 38 – Centrica Business Solutions, applicant.**

Mr. DiOrio recused himself. Mr. Prellwitz, Vice Chair, served as Chair. Attorney Steven H. Surdut appeared before the Board to present the application.

Mr. Surdut provided information for the proposed ground-based photovoltaic array, which would be allowed on the property under the Farm Viability Ordinance. The property is “just over twenty-five acres” in size, with the proposed array being

“approximately .4 A/C megawatts.” The site currently supports a tree farm as well as a residence. The Sposatos have owned the property in question since, roughly, 1997, “in one capacity or another.” The design “takes into account the two main elements of the property, which are topography – specifically, elevation, and the significant changes in elevation that occur on the property, as well as wetlands, located in and around the property.” The applicant will file with DEM for a permit for the aforementioned area. The applicant has received a Zoning Certificate. The array has been designed “in such a way as it will be the least visually available.” The applicant is “planning on using the existing topography, as well as some grading on the site, to allow, to minimize - it will not completely eliminate - the visual impact of this array.”

Jason Gold, a registered professional civil engineer with ESS Group, also spoke before the Board for this project.

Mr. Gold: “It is a twenty-five-acre site, mostly wooded. The wetlands that he [Mr. Surdut] mentioned are on the far south end of the property, and the project proposed work is on the far north end of the property. The twenty-five-acre site, the array covers only just a little more than an acre – one and a third acres. There’s no natural heritage areas on the site, or greenway corridors, or historic districts. There is a historic cemetery adjacent to the property, identified as the Thomas Wilbur Lot. It is in a Primary Protection Zone, and a Secondary Protection Zone.”

The project was submitted to the Planning Office in March. It will produce “about half a megawatt D/C, .4 megawatts A/C”. Utility poles will “go up the existing driveway” for the property. The site will also be accessed by that existing driveway, which will be augmented by a “small extension” near the array. The setbacks surrounding the project will remain vegetated to provide a screen. All distribution lines will run underground. A seven-foot-high fence will surround the array, and the bottom will be raised six inches off of the ground. Grubbing<sup>1</sup> will not take place outside of the fence, though a few shade trees will be cut. The gate will be locked, and a Knox lock will be affixed to provide access in the event of an emergency. Exterior lighting is not proposed for this project. The panel height “will not exceed twelve feet above final grade, and the equipment pad will be outfitted with a one hundred and twenty-five percent containment, as required by the Ordinance.”

A detention basin featured on the original plan “wouldn’t be required there”, as there is “no increase in run-off as a result of this project.” A noise study will be conducted, and a decommissioning plan will be established. A soil erosion and sediment control plan will also be instituted, as well as a storm-water plan. Topographically, there are “some steep slopes on the site.”

After Mr. Gold finished his portion of the presentation, Planning Board members began posing their questions, beginning with Ms. Light. Ms. Light asked Mr. Lamphere how the applicant could “substantiate[d] that the property is, in fact, a farm” for “at least the last

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<sup>1</sup> Grubbing, according to the Oxford English Dictionary, can be defined as “[with object] remov[ing] (something) from the earth by digging it up”.

two years.” Mr. Lamphere stated that the applicant had submitted Internal Revenue Service Schedule Fs, also called Schedule F (Form 1040), which are used to report farm income and expenses, from 2016 and 2017, where revenues exceeded \$10,000.00. They had also provided their State Farm Tax Number, and as previously stated, a Zoning Certificate, verifying that the property in question is a “large farm” under the Town’s Farm Viability Ordinance. The farming operation is limited to forestry and the sale of wood products.

Mr. Lamphere: “I do have Schedule Fs for those two calendar years, as I said. I discussed this with our solicitor, Kevin McAllister, as well, and 2019 tax returns are not actually required to be filled out to the federal government at this point, so, under our Farm Viability Ordinance, if you want to read it, the definition of a ‘large farm’, you have to have ‘gross revenues of \$10,000 in one of the two previous calendar years’. So, the last one that I have, in my possession, is 2017. I asked the applicant’s attorney if they could provide us with the later ones, 2018, and I believe he said -”

Mr. Surdut: “We’re working on – Jim, I apologize for the interruption – we’re working on that. I’d be happy to supply that to you here, between now and our next Planning Board meeting.”

Ms. Light: “Okay, and then, that will follow – that, eventually, we’ll get the 2019, correct?”

Mr. Lamphere: “Correct. Eventually, the 2019 will come out, but, again, that’s, that may not even be relevant, because they only have to have \$10,000.00 of gross income in either one of the two previous years. So, either one gets put, 2019 comes out, and they only have \$5,000.00 in gross revenue, it’s irrelevant, as long as they have \$10,000.00 in -”

Ms. Light: “Okay.”

Mr. Lamphere: “In [20]18.”

Ms. Light was also concerned about the array’s visual impact on the abutting dwelling.

Ms. Light: “I see a dwelling at the north end, and we have a forty-foot setback here. I guess it’s the Board’s previous experience that we’ve exposed the view to passerby, roadways, etcetera. I think we want to avoid making a mistake, as we’d like to see that forty-foot setback increased, to the abutting property. Is it, can we get some feedback on that?”

Mr. Surdut: “We can look into the design, and look into how we can increase that. I believe in the area of, closest to, that abutter it doesn’t need forty feet. That forty-foot buffer, in this case, also, is, it’s fully vegetated, with, I, just – conifers and deciduous trees, a solid mix of the two. So, it’s not just a forty-foot buffer. It’s a forty-foot fully vegetated natural buffer, or a naturally vegetated buffer. So, I think we will do our best to address that concern, but it is not – it is a substantial buffering.”

Ms. Light: “Okay, in the wintertime, there is no natural vegetative buffer, so, that’s some of the concern that we have, and the direction, I think the consensus that the Board has is that we’d like you to be reaching towards a hundred-foot buffer.”

Mr. Surdut: “Well, I would be happy to see what we can do. I will point out that the reason I mentioned that it is a mix of deciduous and conifers is that there does provide

some year-round protection. But we are certainly open to any reasonable request of that abutter regarding buffering and the view card or maintenance in that regard.”

Ms. Shumchenia agreed with Ms. Light, and was concerned that the proximity of the array is closer to the abutters to the north and the south “than the even the property owner’s home is.” She also stated that “it would be very nice to see some thought for the abutters and the neighbors in the design of this project, to limit their exposure to the site lines, to the visual impact of this project, and have the property owner, who is proposing it, bear some of that burden themselves.”

Ms. Shumchenia: “It’s not clear from the, from all of the images you’ve provided, although the overview, the aerial photo, does show there’s numerous houses across the street as well, and the topography lines are extremely steep leading up to this. It looks like the array is going to sit atop a small hill here, and would probably be visible to the entire neighborhood, and I think what we’ve talked about all meeting long is that these arrays really need to be visually screened from every and all viewpoints to really minimize their impact on the neighborhood, the landscape, and the abutters and residents’ experiences in the Town. So, you know, granted, I see that you’ve put in ‘more than enough setbacks’, but I think we’re telling you is that it’s not enough, based on what we’re seeing on this map.”

Mr. Surdut responded, stating that the applicant had “exceeded the statutory requirement” in regards to setbacks, and that topography lines on the plans “are hard to visualize, but the applicant has taken great care, and worked with our design team, and we positioned this array, as is, to minimize the impact on all of the surrounding abutters.” He stated that when the applicant appears before the Board again, “maybe we can have some modeling and some insight”, but he noted that the applicant had “worked diligently to both have this array under the minimum size requirements as located on the property based on the unique elevations of this property, so that it is not visible but for, possibly, from one abutter, as well as my client’s house.” These are “the only two places, that we believe, that it may or may not be visible”, though “if we need to, based on those, as we move forward, we’ll put in screening and tree buffering, but the vegetative buffer is quite dense, the natural vegetation on-site.”

Mr. Surdut stated that the “map may not abundantly show” the present conditions on-site, like the existence of a “dense” vegetative buffer, “but the applicant has said, from the beginning, the nature of the neighborhood, and maintaining view corridors with his abutters, is very important to us.” Ms. Shumchenia responded that she was interested in hearing from abutters to the project “to provide an additional perspective”.

Mr. Lindelow said that he did not have any questions, and that he was “trying to find a reason to not want this to happen”, so he was going to “wait to hear from the neighbors in the area, and the public comment.” He noted that the “DEM approval was forthcoming”, and he wondered why the applicant did not “get that first before coming to us.”

Ms. Light had further comments to make about the proposed project. Mr. Gold responded.

Ms. Light: "I'm really questioning the comment that the detention basin isn't gonna to be needed. We've got a little bit of experience with some projects that have could have been done better, and we've seen the dramatic result of runoff, and with the terrain on this particular site, I absolutely have to wonder how it is that that would not required, so further detail on that, maybe not today, but in the future – that would be helpful."

Mr. Gold: "Yeah, certainly, as we were presenting that as a concept, I was just giving you a kind of a preview, of further details that will be submitted. So, the design review, as the actual engineering design, will include, obviously, the drainage calculations and all the specs that substantiate why that detention basin is not required."

Ms. Light: "Oh, okay, and we also know from past experience that, no matter what the calculations come it at, there's always some unexpected runoff that is deposited. So, you know, you mentioned that the – whatchamacallit – the retention pads for the transformers would be at one hundred and twenty-five percent, you did say that, right, or was it someone else?"

Mr. Gold: "Yes. No, I said that. That's an Ordinance requirement"

Ms. Light then suggested that, "because of what we've seen in the past...maybe we need to shoot for one hundred and twenty-five percent of runoff retention." Mr. Surdut responded that the applicant was in compliance with the "DEM's new Storm Water Regulations." According to Mr. Surdut, approximately eighteen months to two years ago, DEM "revised all of their Storm Water Regulations to take into account recent storm events and recent changes in our climate and precipitation." He then stated that the applicant "will work diligently to ensure that we take into account all reasonable contingencies." Mr. Gold then said that it was "premature" for him to elaborate on "technical discussion" further, because the Board did not "have the same information in front of you that I do", but that he understood Ms. Light's comments, and the reasoning would "certainly be explained in much more detail when we submit the drainage report." Ms. Light found that to be acceptable.

Mr. Prellwitz stated that he was "very familiar with this property", and that he was looking forward to seeing "the next group of plans come in." His only concern was the forty-foot setback screen from the abutting property owner's home, though he agreed with Mr. Surdut that the area was "heavily wooded already."

Ms. Light also asked about access for emergency and maintenance vehicles, as the existing driveway "looks tight to me, and I don't see any allowance there for it." Mr. Surdut stated that the existing driveway is "quite wide", but he said that the applicant would "certainly make it clear on our next submission that that is not a problem."

Ms. Light then brought up a point that Mr. Surdut had previously made – that there would be one abutter who would be impacted by the project. She stated that she thinks that that "one abutter is the most important person you need to think about." Mr. Surdut said that he was looking forward to addressing the concerns of the abutter.

Mr. Prellwitz then allowed the public to weigh in on the application. Joe Moreau, of Old Depot Road, said that he is concerned when he hears “the attorney saying that ‘we will do our best’ concerning the buffer.” He was also concerned by Mr. Surdut’s comment that the applicant “‘will consider any reasonable request’”. Mr. Moreau stated that he had heard Mr. Surdut make other promises before the Board on another application, and “so far, they have not been fulfilled also”. Mr. Moreau also asked the Board to examine whether or not the property in question is a “true farm under the Farm Viability Act”, as an additional concern he was whether or not the property would continue to operate as a farm after the solar array has been erected. He also called the applicant’s existing driveway “a nightmare”, and that he had heard from people who live on Maxson Hill Road that the current conditions there cause it to wash out during rain events.

Mark and Melinda Couture, whose property on Maxson Hill Road would directly abut the proposed array, called in as well. Mr. Couture said that they shared many of the concerns that had been raised. He continued.

Mr. Couture: “The idea that we wouldn’t be able to see this project is absurd. There are deciduous trees. There are no conifers in this corner of our property, this area, and so our living room window, and our kitchen window, are twenty feet, maybe, from the property line, and then the trees that line between, seven months out of the year, there are no leaves, as I think we can all agree. So, it would be – we can see the garage that is identified on the Plans. We can also see our neighbor’s home, their residence. So, the idea that we can’t see forty feet, through woods, is outrageous, so I just, I don’t understand where this idea came from, and I’m a little concerned that, as the previous gentleman mentioned, sort of rigidly adhering to the bare minimums. It doesn’t make us feel very reassured. So, I think that’s our main concern.”

Mr. Surdut asked to have the opportunity to discuss the concerns of the abutters. Ms. Jalette offered to provide Mr. Surdut’s contact information to the abutters to facilitate communication between the parties.

Ms. O’Leary suggested that photos should be taken on the property, as opposed to aerially, to provide insight into the topography of the property. She said that technology currently exists that would allow the applicant’s team to superimpose the propose array into pictures from the site. She stated that she thinks the array can be moved to a different location on the site, or at least “adjusted to accommodate the people who live around the farm.” Mr. Surdut said that there would be some view corridor images created for the next meeting.

Barbara Capalbo called in. She was also concerned about emergency access for the site.

Ms. Capalbo: “This issue has not been addressed before, because in the Farm Viability - it hasn’t been needed before now. Most farms, with solar, are on, that are in the Farm Viability Ordinance, are on open pasture land, or open fields. This is the first time you’re addressing a small piece of property that is completely forested. It’s the first time. There are no other properties that have been done on the Farm Viability that are in woodland.

They are all open. So, I think the emergency access - fire, ambulance, problematic things – do need to be addressed, and especially because you have homes so very close to the field itself. But it is something that I'm glad someone – I think Carolyn – brought up, but I think you should follow that more thoroughly, because it hasn't been done, and it needs to be addressed.”

Mr. Surdut said the applicant would provide the requisite information prior to their next submission.

Mr. Moreau called in again to ask if someone had been keeping track of the questions that had been posed during the meeting, to which Mr. Surdut responded that he was sure that Mr. Moreau himself, as well as the Board members, would be sure to remember the points that had been made.

Suzy Kasabuski, of Juniper Drive Extension and an abutter to the project, called in to ask if the abutters would be notified of the next meeting where the project would be on the agenda. Ms. Jalette responded that that was a question for the applicant and their attorney. Mr. Surdut stated that they “would certainly comply with the statutes”. Mr. Lamphere mentioned that “under the Development Plan Review Ordinance, no further notice, mail notice is absolutely required”, and that it is part of the Pre-Application process to notify abutters of the proposed project. He suggested that any interested parties should periodically check the website for upcoming Planning Board agendas to keep apprised of the progression of the project.

Lisa Rosso, of Diamond Hill Road, called in, stating that she never received a notice, although she is an abutter. Mr. Surdut asked Ms. Rosso to contact him directly. He stated that they had used the Town GIS system as they prepared the application.

Linda Sisson, of Juniper Drive Extension and an abutter to the project, called in to state that “they have an ongoing problem with water” on their property.

Ms. Sisson: “When I stand in my garage, I can see Mr. Sposato’s lights on. Not sure what room they are, but it is very visible from where we are. If there is any runoff whatsoever in our direction, it will inundate us with flood waters. I’d like the Town Council, Planners, whoever you are, to come up to 50 Juniper Drive Extension, and my neighbors - 39 – and see what it’s like up here. We have major concerns, and they are real, and we can see everything from where we live, and we are not happy about it. Thank you for your concern and for allowing me to speak.”

#### **PLANNER’S REPORT:**

None.

#### **CORRESPONDENCE AND UPDATES:**

None.

**PUBLIC FORUM:**

None.

**DATE OF NEXT REGULAR MEETING:** June 3, 2020.

**ADJOURNMENT (NO LATER THAN 10:00 P.M.):**

A MOTION WAS MADE BY KEITH LINDELOW AND SECONDED BY CAROLYN LIGHT TO ADJOURN.

IN FAVOR: SHUMCHENIA, LIGHT, LINDELOW, PRELLWITZ

ABSTAIN: NONE

OPPOSED: NONE

THE MEETING WAS ADJOURNED AT 9:33 P.M.