

2 **TOWN OF HOPKINTON**  
4 **PLANNING BOARD**

6 **Wednesday, June 5, 2019**

7 **7:00 P.M.**

8 **Hopkinton Town Hall**

9 **One Town House Road, Hopkinton, Rhode Island 02833**

10 **CALL TO ORDER:**

11 The June 5, 2019 meeting of the Hopkinton Planning Board was called to order at  
12 7:01 P.M. by Chair Al DiOrio.

14 **MEMBERS PRESENT:**

15 Al DiOrio, Amy Williams, Ron Prellwitz, Keith Lindelow, and Carolyn Light were present.

16 Also present were: John Pennypacker, Conservation Commission; James Lamphere, Town  
18 Planner; Sean Henry, Planning Clerk; and Kevin McAllister, Town Solicitor.

20 **APPROVAL OF MINUTES:**

21 MS. WILLIAMS MADE A MOTION TO APPROVE THE MINUTES OF THE MAY 1, 2019 PLANNING  
22 BOARD MEETING.

23 MR. PRELLWITZ SECONDED THE MOTION.

24 MR. DIORIO, MS. WILLIAMS, MR. PRELLWITZ, MR. LINDELOW, AND MS. LIGHT APPROVED.

26 Attorney George Comolli, representing Norbert Ansay, Jr., requested to the Planning Board Chair  
28 that the Advisory Opinion for his client be moved ahead of the other Advisory Opinion on the  
30 agenda. Mr. Comolli said that he had already spoken to the attorney representing the other  
31 application, and that he had given his assent, and he advised that his presentation would be very  
32 brief.

33 MS. WILLIAMS MADE A MOTION TO MOVE THE ANSAY APPLICATION TO THE FIRST AGENDA ITEM.

34 MR. PRELLWITZ SECONDED THE MOTION.

35 MR. DIORIO, MS. WILLIAMS, MR. PRELLWITZ, MR. LINDELOW, AND MS. LIGHT APPROVED.

36 **PUBLIC HEARING:**

38 **Advisory Opinion to Town Council – Request to amend the Hopkinton Zoning Ordinance to add**  
39 **Art Gallery/Studio as a new use in certain zoning districts – Norbert Ansay, Jr., applicant**

40 Attorney George Comolli presented on behalf of the applicant. He stated that the applicant is  
42 requesting a text change to the Zoning Ordinance’s District Use Table to allow art studios and  
43 galleries within Neighborhood Business and Commercial zones. He said that the use endorses

2 many of the concepts within the Comprehensive Plan, and that the definitions used in the  
4 proposal are straightforward.

6 Questions from the Planning Board:

8 Mr. DiOrio: Would the applicant be willing to obtain a Special Use Permit as part of this  
change?

10 Mr. Comolli: It would be another step in the process, but the applicant welcomes the  
opportunity to produce a best practices management plan to address concerns for the aquifer.  
12 Mr. Lindelow: Is parking a concern at this site?

14 Mr. Comolli: Parking is not a problem. Being located right next to West’s Bakery, which  
operates primarily in the morning, while the gallery would operate primarily in the evening.  
16 Mr. Pennypacker: I think a Special Use Permit is appropriate in the caustic materials category.

18 Questions from the public:

20 Ms. Capalbo: How does this proposal affect residential districts that have art galleries and  
studios that already exist?

22 Mr. Comolli: If there is an art gallery in a residential zone, that would be a pre-existing  
nonconforming use. This proposal would not affect them, it only affects the Commercial and  
Neighborhood Business zones.

24 MR. PRELLWITZ MOVED TO ADVISE TO THE TOWN COUNCIL THAT THE PLANNING BOARD HAS  
MADE A POSITIVE FINDING THAT THE PROPOSED USE IS CONSISTENT WITH THE HOPKINTON  
26 COMPREHENSIVE PLAN, WITH THE CONDITION THAT THE USE CODES 761 AND 762 REQUIRE A  
SPECIAL USE PERMIT IN NEIGHBORHOOD BUSINESS ZONES.

28 MS. WILLIAMS SECONDED THE MOTION.

30 MR. DIORIO, MS. WILLIAMS, MR. PRELLWITZ, MR. LINDELOW, AND MS. LIGHT  
VOTED IN FAVOR OF THE MOTION.

32 MOTION PASSED 5-0.

34 **PUBLIC HEARING:**

36 Advisory Opinion to Town Council – **Requests to amend Comprehensive Plan Future Land Use**  
38 **Map from Low Density Residential to Commercial, amend the Zoning Map from RFR-80 to**  
**Commercial-Special to allow for the installation of a ground-mounted solar array, and to amend**  
40 **the Zoning Ordinance Chapter 246 (Non-residential PSES) – AP 8 Lot 36 – 336 Woodville Road –**  
Edward Carapezza, applicant

42 MR. PRELLWITZ MADE A MOTION TO OPEN A PUBLIC HEARING.

MS. WILLIAMS SECONDED THE MOTION.

44 MR. DIORIO, MS. WILLIAMS, MR. PRELLWITZ, MR. LINDELOW, AND MS. LIGHT APPROVED.  
MOTION PASSED 5-0.

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Ms. Light recused herself from the application.

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Attorney Scott Spear appeared representing the applicant, Edward Carapezza, who was also present. Also present for the applicant were Anna Chavez, of Clearway Energy, and a project engineer. The subject parcel is a 196 acre wooded property located between Woodville Road and Interstate Route 95. There is an existing sawmill and house on the property. The co-applicants are aware of concerns of the residents, and characterize the project as having an outstanding site. The applicants are seeking to re-zone 51.8 acres of the subject parcel to Commercial-zoned land, of which the solar system would occupy 22.4 acres of panels. The area where the project would take place is buffered by 143 acres and will not be visible from Woodville Road. The closest residence is 2,700' from the area. They believe that the project conforms with the aspirations and desires of the Town's Comprehensive Plan, and strikes a balance with the area and location with respect to negative impacts from the project. The majority of the area to be re-zoned is bounded by I-95, and abuts another 300 acres of Commercial-zoned land. The applicants are proposing a special zoning designation that the photovoltaic use would be the only use allowed, conditional to approval from the Planning Board. The applicant also proposed a sunset provision that would revert the property back to RFR-80 should the photovoltaic use be abandoned or discontinued. The applicant also suggested a condition to revert if the applicants do not move forward with the project within a certain period of time.

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In total, the proposal includes a Comprehensive Plan amendment to change the Future Land Use Map, a Zoning Map amendment for the parcel, and zoning text amendments to clarify what the applicant believes to be ambiguity within the Town's solar ordinance. The ordinance cites a "Master Plan" approval, but projects reviewed by the Planning Board utilize the Development Plan Review process, which does not contain a "Master Plan" stage. The second text amendment is to utilize the option with the ordinance that the Planning Board has to exceed the 3% or 3 acre coverage limit that is specified in the solar ordinance. Mr. Spear continued that he believes the project to be consistent with the Hopkinton Comprehensive Plan. He cited Goal PSF-17, to encourage renewable energy within the Town, as well as Goal ED-1, to develop the Town's tax base. Attorney Spear also noted that page 43 include a lengthy aspiration for renewable energy to be developed at good sites within the Town.

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Anna Chavez, of Clearway Energy Group, also addressed the Planning Board. She stated that the company has expertise in the full life cycle of solar projects and maintains long-term ownership of the systems. They perform maintenance in-house, and are aiming to take a collaborative approach with the town and with the neighbors. She believes that the site is unique for a solar project.

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Questions from the Planning Board:

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Mr. Prellwitz: Could you clarify the 3% limit? Residents have come to me with different interpretations of what that limit means

2 Mr. McAllister: Projects that have come after the recent passage of the Town’s solar ordinance  
4 requires that parcels that have been re-zoned for the purposes of solar development can only  
6 develop the lesser of 3 acres or 3% of the parcel, per section A-13 of that ordinance. The  
8 Planning Board has the authority to raise that limit at their discretion. The mechanism was  
intended to eliminate the economic viability of many projects. The ordinance says that if a  
parcel is successfully re-zoned, and the Planning Board is silent on this issue or votes against  
the re-zoning, then the 3% or 3 acre limit remains in place.

Ms. Williams: Is the site within an Aquifer Protection Area?

10 Project Engineer: I haven’t looked at that closely.

12 Ms. Williams: I believed the 3% limit was too low. The location of the project and it not being  
visible seems to satisfy that need. The project is adjacent to an existing Commercial zone, but  
I’m not sure how I feel about a split-zone lot.

14 Mr. Lamphere: They exist. They are not illegal if it makes sense.

16 Mr. DiOrio: There is no ambiguity in the ordinance. The 3% number was designed to send a  
message to the applicants regarding these kinds of projects. And I stand by the Master Plan  
requirement, because it was intended to account for the higher review available besides  
18 Development Plan Review. The Town Council does not need to be inserted into the ordinance.

Mr. Lindelow: I support the 3% limit. A lot of time and effort went into crafting that ordinance.

20 Mr. Prellwitz: The location of the project is ideal. We are seeing closing of a lot of our electrical  
sources close. A balance needs to be struck.

22 Mr. Lamphere: I was present at the public hearings where the solar ordinance was passed,  
and I agree with Mr. DiOrio that the intent was to utilize the Major Land Development review  
24 process.

26 Questions from the public:

28 Joe Moreau, Old Depot Road: We don’t oppose all solar development, but we oppose the re-  
zoning of residential land for the purposes of solar development. The property owner wants  
30 to continue to live on the parcel, and benefit from having solar on the property. This is an  
instance of spot zoning. Also, electrical infrastructure is visible at a distance. The Planning  
32 Board should issue an adverse opinion based on the Comprehensive Plan’s Goal LU-1, to  
protect the rural character of Hopkinton.

34 Eric Bibler, Woodville Road: I went to the solar ordinance hearings. The discussion was that  
projects were too large for Development Plan Review and should be reviewed as a Major  
36 Land Development. The 3% or 3 acre rule had nothing to do with aesthetic concerns, but  
focused on previous non-conforming uses like former gravel banks where solar would be  
38 preferable to that. A large Commercial Special parcel was re-zoned to allow a golf course with  
similar promises about restricted uses. Also, automatic re-zoning like the sunset provisions  
40 are not legal. The access road would be an aesthetic concern, the applicant will have to carve  
out room for an access road and transmission lines. Abutting properties that don’t have  
42 residences on them should also be considered in this process.

Edward Carapezza, Woodville Road (applicant): The proposed access road is a 12’ wide  
44 gravel road, not a major road. The Comprehensive Plan encourages putting solar arrays  
adjacent to I-95. The project wouldn’t affect the historic quality of life in the area, otherwise I

2 never would have put the proposal forward. I strongly support these kinds of projects, and if  
a neighbor came up with an analogous project, I would be supportive of it as well.

4 Lauren Turner: I have sat through many of these kinds of proposals at meetings. Developers  
have descended upon Hopkinton with no regard for people who live here. There is not  
6 enough evidence that solar is safe. There is no perfect spot for a project that residents don't  
want.

8 Justin Bentley, Maxson Hill Road: The issue isn't opposition to solar. We're opposed to spot  
zoning.

10 Martin Sheldon: Residents entrust the safety of the Town to the Planning Board and Town  
Council. Solar panels already line I-95. I'm not supportive of cutting thousands of trees. The  
12 3% rule was established for a clear reason.

14 Steve Brophy, Cedarwood Lane: I believe the Town should stick with the 3% limit. Changing  
it for this project would set a bad precedent. I appreciate the hard work of the Planning Board.

16 Steve Wheil, Old Depot Road: I encourage Planning Board members not to get caught up in  
national issues.

18 Marnie McNamara: We haven't seen how the waterways will be affected. There are still  
engineering questions related to the project, and the involvement of RIDEM.

20 David Gever, Hope Valley: Wind turbines will generate more energy than the closing of the  
Pilgrim nuclear power plant.

22 Tim Ward, River Road: I'm a property manager for an abutting property. I'm concerned about  
another driveway being allowed in the zoning setbacks.

24 Lisa Huftalen, River Meadow Drive: I have never been to a Planning Board meeting before. I  
feel strongly that this project would be destroying a part of Hopkinton, and I am opposed to  
the project.

26 Mr. Carapezza: The property has been kept as a healthy wildlife refuge for 42 years, and all  
environmentalists ask property owners to clear cut areas of their property. We have a long  
28 track record of preserving wildlife.

30 There was no further comment from the public.

32 MS. WILLIAMS MADE A MOTION TO CLOSE THE PUBLIC HEARING.

MR. PRELLWITZ SECONDED THE MOTION.

34 MR. DIORIO, MS. WILLIAMS, MR. PRELLWITZ, MR. LINDELOW, AND MS. LIGHT APPROVED.  
MOTION PASSED 5-0.

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38 HAVING FOUND THAT THE APPLICATION SUPPORTS THE HOPKINTON COMPREHENSIVE PLAN,  
SPECIFICALLY ECONOMIC DEVELOPMENT GOAL #1 (ED-1), *TO PROVIDE FOR THE EXPANSION OF  
40 THE TOWN'S TAX BASE BY ENCOURAGING DEVELOPMENT OF NEW AND EXISTING LIGHT AND/OR  
HEAVY INDUSTRIAL & OFFICE/COMMERCIAL BUSINESS*; AND LAND USE GOAL #1 (LU-1), *TO  
42 PROTECT THE QUALITY OF LIFE AND RURAL CHARACTER OF HOPKINTON*, AND THAT THE APPLICANT  
HAS WORKED TO BALANCE THE PROPOSED DEVELOPMENT WITH ECOLOGICAL AND AESTHETIC  
CONCERNS, MS. WILLIAMS MOVED TO ADVISE TO THE TOWN COUNCIL THAT THE PLANNING  
44 BOARD RECOMMENDS APPROVAL OF THE FLUM AND ZONING MAP AMENDMENTS ON THE  
SUBJECT PARCEL, AND RECOMMENDS THAT THE LOT COVERAGE LIMIT BE INCREASED TO 10%.

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MR. PRELLWITZ SECONDED THE MOTION.  
MS. WILLIAMS AND MR. PRELLWITZ VOTED IN FAVOR OF THE MOTION.  
MR. DIORIO AND MR. LINDELOW OPPOSED THE MOTION.  
MOTION FAILED 2-2.

**OLD BUSINESS:**  
None

**NEW BUSINESS:**

Presentation and Discussion: Procedure for Zoning Amendment Applications submitted to the Town, including applications to install PSES on residential property.

Mr. DiOrio explained that, given the sensitive nature of the topic within the town, there would be some ground rules for what the bounds of the discussion would be. He believed there are some questions that have not been adequately addressed and need to be explored in more detail in order for the Planning Board to carry out their functions. No specific projects could be mentioned as part of the discussion. He asked that the presenters limit their remarks to thirty minutes so that there would be sufficient time for the audience to participate. All questions should be addressed to the Chair, and participants will not be disrespectful towards anyone that is or is not present.

Eric Bibler, Hopkinton resident, and Attorney James Donnelly presented the material Mr. Bibler explained that the group Hopkinton Citizens for Responsible Planning was not founded as an anti-solar group, but was formed as a response to the rapid passage of several solar projects that involved re-zoning residential land. The group has over one hundred donors, and is assisting in numerous appeals within town based on their individual merits because their view the issue as a community-wide issue. The group has spent over \$50,000 on legal fees, and their mission statement says that they support the Planning Board and the objectives of the Hopkinton Comprehensive Plan. Mr. Bibler’s group prepared a summary of the legal issues where their opinion differed from that of the Town’s opinion. The appeals that their group supports have issues with the legal interpretations of vested rights for development projects, as well as the approval process of projects that have come before the Town to date. Mr. Bibler believes that the Planning Board’s role in Zoning Amendments has been usurped by the Town Council, and that it was the Planning Board’s role to decide which ordinances were applicable for a given development application. He also outlined several legal issues where he contended that there were specific provisions within the Town’s regulations and charter that were not being observed for the projects that have come before the Town.

Attorney James Donnelly, of Wakefield, distributed a list of planning and zoning regulations at both the Town and State levels that govern the administration of these projects. He also provided a review of his interpretation of the framework that empowers the municipality and the Planning Board to review development projects. The process that

2 he outlined would require developers to obtain conditional approval from the Planning  
4 Board prior to the Town Council considering and voting on a Zoning Amendment for that  
project.

6 Questions from the public:

8 Joe Moreau: I have tried to learn the operations of our Town and how other towns have  
10 done these review processes. We support our Planning Board, and appreciate their  
representing the residents.

12 Louanne McCormick, Lisa Lane: I am concerned about the new solar ordinance. It was  
passed on January 22<sup>nd</sup> with new requirements and coverage limits. So I don't understand  
14 why in June new projects are being presented under the old solar ordinance. It is  
extremely concerning.

16 Lauren Turner: I find the process disturbing to learn that there are discrepancies with the  
town government where it results in projects that the residents don't want are getting  
18 approved.

The Planning Board discussed the presentation with the public, and no votes were taken.

20 **SOLICITOR'S REPORT:**

22 None

24 **PLANNER'S REPORT:**

26 None

28 **CORRESPONDENCE AND UPDATES:**

Correspondence from applicant's representatives regarding Maple Court extension

30 Information from Sage Environmental regarding the 310 Main Street solar project secondary  
32 containment equipment. The Planning Board wanted to clarify how the equipment would be  
selected, and ensure that the Town would be included in the decision.

34 **PUBLIC COMMENT:**

36 None

38 **DATE OF NEXT REGULAR MEETING:** July 3rd, 2019

**ADJOURNMENT:**

40 MOVED TO ADJOURN THE MEETING

42 SECONDED THE MOTION

MR. DIORIO, MS. WILLIAMS, MR. PRELLWITZ, MR. LINDELOW, AND MS. LIGHT APPROVED.

44 MOTION PASSED 5-0.

The meeting was adjourned at 10:00 P.M.