

**TOWN OF HOPKINTON
PLANNING BOARD**

REGULAR MEETING

Wednesday, September 1, 2021

6:00 p.m.

**Hopkinton Town Hall
1 Town House Road, Hopkinton, RI 02833**

CALL TO ORDER:

Chairman Al DiOrio called the meeting to order at 6:03 p.m.

MEMBERS PRESENT:

Chairman Al DiOrio, Town Planner Jim Lamphere, Senior Planning Clerk Talia Jalette, Planning Board Solicitor Maggie Hogan, Planning Board Vice Chairs Ron Prellwitz and Emily Shumchenia, Planning Board members Carolyn Light and Keith Lindelow (arrived late), Planning Board Alternate John Pennypacker, Town Council Liaison Sharon Davis, and Conservation Commission Liaison Deb O'Leary were in attendance.

ROLL CALL:

Mr. Lindelow was the only Planning Board member to arrive belatedly. The rest of the Board stated that they were in attendance.

PRE-ROLL:

Mr. DiOrio stated that he would not be in attendance at the October 6th Planning Board meeting. The rest of the Board, including Planning Board Alternate John Pennypacker, stated they would be present.

APPROVAL OF THE MINUTES:

Mr. Prellwitz made a motion to approve the minutes from the July 21st, 2021 Special Planning Board meeting. It was seconded by Ms. Shumchenia. There was not any discussion.

In Favor: DiOrio, Prellwitz, Light, Shumchenia, Pennypacker

Abstain: None.

Opposed: None.

5-0, the motion passed.

OLD BUSINESS:

Noting that there was a discrepancy between the advertised start time of the meeting on the agenda and the Town's digital calendar, the Board voted to modify the agenda to hear the second Pre-Application for Bobcat Trail first. Mr. Lindelow arrived before the vote was taken.

A motion was made by Mr. Prellwitz to modify the agenda. It was seconded by Mr. Lindelow.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia
Abstained: None.
Opposed: None.

5-0, the motion passed.

Second Pre-Application – 8-Lot Major Subdivision – Bobcat Trail – 206 Skunk Hill Road – Plat 21, Lot 3C. Bobcat Realty, LLC., applicant.

David D'Ambra, the applicant, and Chris Duhamel, an engineer with DiPrete Engineering, appeared before the Board. Approximately 20 minutes into their presentation, Ms. Jalette contacted Jeff Frenette, the Town's IT personnel, to find out if the presenters could be heard clearly. They discovered that while there had been a video recording of the Board's earlier administrative actions and the beginning of the Bobcat Trail presentation, there was not an audio recording. The Board had to pause their proceedings while Ms. Jalette worked with Mr. Frenette to address the problem. After a number of microphone tests, the Board was live again at approximately 6:28 p.m. Mr. DiOrio asked Ms. Jalette if she thought that any of the meeting had been captured. She stated that there was a "video recording, but without the audio, it's essentially useless." She explained that "the whole point of having the record is having both" the video and audio component. Mr. DiOrio asked "how far" they would have "to push the rewind button" on the Bobcat Trail application. She said that, "just to be sure", the applicant would have to begin again. Mr. DiOrio told the applicant that the Board appreciated that they had begun their presentation, so they could "feel free to trim the fat", but that, for the record, they would need to start again. Mr. D'Ambra appeared before the Board.

Mr. D'Ambra explained that they had "shrunk a previous project" that the Board had seen in the past "down to five" lots, so they were now "asking for a 5-lot" subdivision. He stated that it would "technically" be considered a "Major" Subdivision because they would "need a waiver on the driveway width." Mr. Duhamel then appeared before the Board, and explained that the proposal Mr. D'Ambra had presented in the past was an 8- to 10-lot development, so the number of parcels had been reduced.

Mr. DiOrio commented on the proposal first. He said that he did not "have any problem with this application", but that he wanted clarity on something. He noted that the bottleneck on the existing parcel would allow for a 40-foot right-of-way, and wanted the assurance that once a driver left the bottleneck, the right-of-way would increase in width to 50 feet. Mr. D'Ambra replied that that would be the case. Mr. DiOrio continued.

Mr. DiOrio: “So, the only, uh, thing I’d like you to note for your next presentation is – I’d like you to come prepared to give us the title history, to show that the 40-foot strip have you currently have was created, on the record, however it evolved, okay? Just so that we’re clear that you know how we got there.”

Mr. D’Ambra: “Correct.”

Mr. DiOrio noted that it was an “unusual situation”, and that he was concerned about setting a precedent by allowing a roadway width shorter than what was delineated in the Land Development and Subdivision Regulations. Mr. D’Ambra explained that they would have Attorney Kelly Fracassa “prepared to answer those questions next time.” Mr. DiOrio asked the Board if they had any questions or comments for the applicant. Ms. Shumchenia said that she was confused about the “Minor/Major” Subdivision distinction, as Mr. D’Ambra had referred to his project as being a Minor Subdivision – though it would be reviewed as a Major. Mr. DiOrio explained that a waiver request, no matter what it was, would bump a Minor Subdivision up to a Major Subdivision. In this instance, it was the 50-foot right-of-way waiver. Mr. D’Ambra said that that was correct, and that “everything else will be built according to Minor” Subdivision standards. He then said that the design would be “compliant – the lot frontages, the coverages, the rates, and the road width, and, you know, sidewalk.” He continued.

Mr. D’Ambra: “Whatever you guys need for the road, we will – we’ll be able to fit it in the 40 feet, too, because even a 26-foot ride, road, with the 5-foot sidewalk will, will fit on the land we own. It’s just the right-of-way which is the thing in question.”

Mr. Prellwitz asked if it was going to become a Town road. Mr. D’Ambra replied that that was what they were asking for. Mr. Prellwitz thanked Mr. D’Ambra. Ms. Light jokingly asked if the applicant would name the road after her. Mr. D’Ambra replied that they were “open to suggestions”.

Mr. Lamphere asked the Board if they would be “amenable to combining the Master and Preliminary stages into one stage”, as the proposal was a “relatively simple subdivision”. Mr. DiOrio said that he would agree with that, and asked the rest of the Board how they felt about that course of action. They agreed. Mr. DiOrio asked Ms. Hogan if she had any comments. She did not. Mr. DiOrio asked if there were any members of the public who wanted to comment. There were not any members of the public who wanted to comment. Mr. DiOrio thanked the applicant, and stated that he hoped that they had what they would “need to more forward” with their plans.

From 6:35 p.m. until 7:00 p.m., the Board was in recess. At 7:00 p.m., Mr. DiOrio called the meeting to order again.

Master Plan – Public Informational Meeting – Major Land Development Project – Skunk Hill Road Solar – Plat 18, Lots 8, 13, and 14, 0 Arcadia Road, 0 Lisa Lane, and 145 Skunk Hill Road. Skunk Hill Road Solar, LLC., applicant.

Robert Craven, the attorney for the applicant, appeared before the Board. He explained that his recollection of where they were in the process was that “there was going to be a public session, after the Board had an opportunity to ask some questions.” He noted that some questions arose “that prompted” the applicant to present “some supplemental information to answer those questions”. He stated that one example was related to the “sight line”. He called on Sergio Cherenzia, an engineer with Cherenzia & Associates, to present “his aspect of that, uh, supplemental information”. He began by setting up easels for the Board and the public to view. Mr. Craven then had “one question” for Mr. Cherenzia before he began.

Mr. Craven: “Uh, you’ve set up two different, uh, boards, with information on it.”

Mr. Cherenzia: “Correct.”

Mr. Craven: “And one is for, uh - pointed in each direction. Are they identical to each other – the one with the brown and white maps on it, and the other one – looks like an aerial photograph?”

Mr. Cherenzia: “They’re identical.”

Mr. Craven confirmed that the identical maps were facing in two different directions - one map was “available to the Board” while the other was “available to the public”. Mr. Cherenzia then appeared before the Board. Mr. Cherenzia explained that Cherenzia & Associates had “prepared the land survey”, while “the engineered site plans were developed by, uh, Woodard and Curran.” He stated that Denise Cameron, from Woodard and Curran, was in attendance if there were any questions “specific to the engineered site plans” that he could not answer. He continued.

Mr. Cherenzia: “Since we’ve, uh, been here last – it’s been, I think, a couple months, um, and, uh, we’re back in person now – it’s nice to see everybody – uh, the, uh, plans that we’ve, that are before you this evening that are, uh, that, um, Attorney Craven has identified, um, for the record, have been submitted to you, uh, prior to the meeting, so you do have these in your informational packets, and they have been provided to the public.”

He stated that they applicant “would have presented these [plans] at” their “last Master Plan meeting”, but that it had been “cut short”, and they had “been postponed to this evening.” He continued.

Mr. Cherenzia: “Uh, so, the two plans that I have up right now – one is an overall site plan, overall Master Site Plan. Uh, that, that’s one that’s on the top of the easel right now. Um, I will just bring attention – I can’t really point to things. I know it’s a little tough to see at the scale, uh, but, generally, what has taken place since that meeting, and, and so that we, uh, had some commentary at the last meeting, which identified some fence, uh, encroachments, uh, into the, um, into the buffer setbacks - um, I believe there’s 100 foot. Um, we’ve since, or, or Woodard and Curran, uh, has since rectified a few of those locations. Um, I can point them out to you, um, if you need to, uh, have them specifically, uh, shown, and then we also rectified a setback that was – came to a point off of an angle which should have been a radius, which then, uh, fixed a, a fence. There was a fence line

that was shown over that line. The line was incorrect. The setback has been rectified. Um, so, at this juncture, we believe that we've, uh, honored that setback requirement, uh, and all of our fencing is outside of it. Uh, the second exhibit – I'm just gonna walk over and put it, put it up higher, so everyone can see it. Uh, the second exhibit, uh, just for the point of reference - to the right, on your, on the aerial photograph is, uh, properties off of Lisa Lane, um, and what we are trying to exhibit with this, um, with this plan, is a profile, uh, a sight line, uh, profile of at least one of the residences – what they would see, um, as they are looking towards the, uh, solar field. So, um, we have a station diagram – for those who aren't familiar with those, it's a line that shows exactly the sight line from one of the houses that cuts through the site, and then identifies the topography, or the elevation at each – at, at, right along that, that line, line of sight, and what this demonstrates per – for the, uh, requirements of, of the, I believe, it was the Pre-App, um, or determination of the zoning, uh – I believe it was the zoning determination – was that, uh, any house, uh, from its first floor, would have, would have to be buffered, visually, um, from, uh, from the solar field. Uh, so what this shows – if you're looking at it from right to left – is an example of this. We, we've only taken one section. If we need additional ones, we can show them, but this, generally, is, uh, carried, throughout, and that there's a, uh, the structure all the way to the right, um, you know, an area of, of backyard, until we get to some thick vegetation. Uh, the trees that we've represented on the profile are about 25 feet tall. Um, I can tell you from driving through there, and I have some photos, that, uh, they – some, so, a lot of those trees, uh, are taller than the houses, and they're probably closer to 30 feet tall, if not taller, um, so we conservatively took that as a – the trees – to be 25 feet tall, and then, also beyond the forested area – that, that shall remain forested – at least on our property, um, and is subject to wetlands, so, likely, would not be able to be, uh, cut down. Beyond that, uh, we get to our open field – you can see on the aerial – and that open field is gonna be subject to, uh, a berm, a proposed berm, and then, on top of that berm is going to be some additional vegetation, some trees that will be, um, planted at the apex of that berm. Uh, so, what does all this say? Uh, so, from the house, all the way to the other end of the array, um, that is shown at about a thousand – this is about a thousand feet section, um, so we can identify, by this profile, that the line of sight through all the trees, uh, through, you know, through that berm, with the trees above it, um, you won't be able to see, uh, the, the, the array, uh, beyond those, those buffering. Um, furthermore, this – the area that is currently, uh, within the 200-foot riverbank, uh, wetland – that's that curved line, um, that is, uh, that is delineated through the field – um, George [Gifford], uh, our landscape architect will, will get up and, uh, he'll go over some of the sketches that were sent to you – but, basically, that berm, in addition to the trees that will be planted at the apex of it, will also be vegetate, and that whole area will allow it to grow wild – back to what it would have been if it's, you know, in that, back to its natural state. That'll take some time to regrow trees and everything and the like, but, for the most part that, that's gonna, um – where, what is now farm field, uh, is going to revert back to, eventually, uh, open, open, uh, and wild and undisturbed, uh, wooded area as it grows back, and, and, is, is untouched, um, because we anticipate to stay outside of, uh, the – a portion of that area that is not taken up by the, the berm, and, uh, the, the – actually, that side of the berm, um, will just be maintained with, uh, you know, low-lying, um, pollinator species. Um, George [Gifford] can get into it, with the seed mixes, um, but a portion of that will be able to revegetate, and will remain

undisturbed. Um, so, those are the, the, the – more or less, these are in response to some of the concerns that we anticipate and that we heard from the, um, the commission, uh, making sure that we're protecting neighbors from, uh, visual, of the, uh, of, of this, uh, facility, solar facilities. Um, that being said, uh, there were some – there might have been some other concerns. I think they may come up in the course of this public hearing, um, but I would like to turn it over to our landscape architect so he can get into a little bit more of the detail on those actual berms that will be, um, installed to, uh, enhance that buffer.”

Mr. DiOrio asked Mr. Cherenzia to show something to those assembled before leaving the podium. He asked him to show “on the overall site plan, where the profile has been run”, and that “an approximation” would be “fine”. Mr. Cherenzia replied.

Mr. Cherenzia: “Basically, it runs through this area -”

Mr. DiOrio asked if what he was looking at was called “Section A”. Mr. Cherenzia said that he was not sure if it was identified as a section, but that it very well could have been. Mr. Cherenzia said that it was “up to the north, northeasterly portion of the site”.

Mr. George Gifford then appeared before the Board. He explained that he is a licensed landscape architect, and that he was “handling this, these documents, a little differently.” He continued.

Mr. Gifford: “Uh, I have provided the Board with these 8½ by 11 size sketches that were generated and submitted to the Planning Department subsequent to the last hearing we had, uh, and I have provided an enlargement on the board for the audience’s, uh, viewing. The Board will remember – at the last hearing, we testified about the size of the berm, that, uh, uh, Sergio [Cherenzia] was just talking about. We testified about the plantings that are required to go on top of the berm, and, and the placement of these berms, the, the plant varieties, and three different types of seed mixes that we’re proposing for three different uses throughout the site, and I can answer some specifics about that if, if anyone has questions subsequent to the testimony that we entered in at the last meeting. The purpose of my discussion tonight is to just explain these three sketches that were submitted subsequently. Uh, these sketches, uh, describe some additional plantings that are being proposed. One is in that area – the first, SK-1, there are additional plantings that are proposed in the vicinity of the area that Sergio [Cherenzia] was just talking about – that area where the 12-foot high berm touches into a jurisdictional, regulated area, uh, regulated by the Department of Environmental Management, the 200-foot, what’s called the 200-foot riverbank wetland. This is, of course, a dry area, but regulated, because it falls within the 200 feet of the, uh, the edge of the stream. It’s a field. It’s been maintained as a farmer’s field for, potentially, hundreds of years, and, uh, as engineered on the plans now, the berm extends into this regulated area a little bit. We will be planting this area alongside the east side of the berm, and, in particular, where, where that, um, uh, regulated area is, we’ll be, uh, installing additional native plantings on the east side of the berm. That is what this SK-1 demonstrates. Furthermore, as Sergio [Cherenzia] mentioned, the SK-1 drawing documents that that farm field area, between

the berm and the, uh, wooded area associated with the wetlands, will be allowed to revert to a natural wooded condition. The second sketch, the second sketch, the second sketch, uh, addresses additional plantings that are proposed at the south end of, of the, uh, the, the central berm, so, let me just indicate on an overall plan for, for the audience's benefit. So, there's a large berm on the northeast corner of the property, and then, and then there's another berm a little further south of that. This, this berm is also being treated, as discussed at the last meeting, uh - vegetated with some, um, uh, nectaring plants for, for, um, uh, butterflies and, and moths, um, and plantings on the top of the berm, evergreens on the top of the berm, for screening, but, in addition, what we've added now are some additional evergreen trees on the southeast toe of this berm. Uh, to additionally, uh, screen, actually, the berm itself, uh, and, and not give it such an abrupt feel at the south end of the berm. The third sketch, SK-3 – the third sketch simply addresses a, uh, an old, uh, gravel roadway that extends off of Lisa Land – Lisa Lane – southerly, into the, uh, into the property. I guess there's a history of this gravel roadway, that's been used for various access issues, and, uh, that is no longer going to be necessary, so, what we've done in this sketch is to indicate that we intend to plant perpendicular to the roadway, plant some evergreen trees to block it off and, and visually demonstrate that that roadway will no longer allow vehicles to go through. So, that concludes my explanation of the updates since the last hearing, and I can address any questions if you have any.”

Mr. DiOrio thanked Mr. Gifford. Mr. Prellwitz had a question about the slope of the berm, which he referred to as a “very shallow angle on a berm”. He asked if it was a “3 to 1 slope”. Mr. Gifford replied that it was. Mr. Gifford said that the plans “that are under review right now” were “intended to be conceptual in nature.” He continued.

Mr. Gifford: “These plans do still show that, uh, 3 to 1 slope, um, and it is a gradual slope. It's a conservative way of designing a berm because you can stabilize burns, berm soils, side slopes, uh, with seeding, and, um, wi-, with no need for any sort of erosion control fabric. Um, there have been some discussions, and, and, and we'll be looking into the possibility of steepening the side slope if necessary, um, to, to minimize impacts i-, if that's necessary. I-, if that happens, we, we probably will be looking at using some stabilizing fabric, uh, uh, some, uh, fabric that, that, uh, can degrade in place after it's done its job.”

Ms. Shumchenia asked if there was a “permit required” from the Department of Environmental Management “to alter within the 200, 200-foot riverbank wetland”, or if that was “something that needs to be done.” Mr. Cherenzia said that the “quick answer is ‘yes’”. He continued.

Mr. Cherenzia: “However, you'll notice that, uh, in the – actually, in the profile, uh, you can see that a good portion of that 200-foot has been historically disturbed. Um, when that type of disturbance predates DEM [Department of Environmental Management] regulatory, regulation, you typically – it's exempt, uh, from – as long as you don't change it. Um, if you keep it the same way – we anticipate we're gonna be enhancing it, so that will be looked favorably upon, uh, by the DEM [Department of Environmental

Management], uh, officials. Um, so – but, if we are going into virgin area that is pristine, that is wooded, you can't go in and just go clear that, and we don't intend to do that.”

Ms. Shumchenia: “Okay. So, regardless, DEM [Department of Environmental Management] is reviewing this, will have to review this section of the plan?”

Mr. Cherenzia: “Absolutely.”

Ms. Shumchenia: “Okay.”

Mr. Cherenzia: “Yep. Because of the wetlands – and we also need a RIPDES – a Rhode Island Pollution Discharge Elimination System storm water permit, um, so this will go through a full preliminary determination review. We hope that it will be considered what's called an insignificant alteration as part of that preliminary determination and review.”

Mr. Craven then appeared before the Board. He said that if there were not any more questions, that would be “the end of [the applicant's] supplemental presentation”, and the he believed that “the next order of business” would be hearing from the public. Mr. DiOrio asked if the Planning Board members had any questions or comments in relation to the most recent testimony provided by the applicant. When he did not hear from the Board, he turned to Mr. Lamphere, and then Ms. Hogan. Neither of them had any questions or comments that that time. Mr. DiOrio then invited members of the public to comment on the “project as a whole”, as well as what had been presented that evening. Before the public could speak, S. Paul Ryan, the attorney for the objectors, stood up and stated that at the end of the public comment period, he was going to confer with Mr. Craven about setting up a schedule for his expert witnesses at the next hearing. He said that he was just stating that to put it on the record.

The first member of the public to speak before the Board was Richard Noel, of Lisa Lane. He said that he had only ever appeared before the Planning Board one other time, and that it was when the Board heard the proposal for the first time. He said that at that time, he had said that if a person was sent “out into Hopkinton” to find “the least appropriate place to put an array, they would have returned with this one” and “not have been disappointed.” He said that, at the beginning, they had “very little information” - that they were “groping around, trying to get a handle, wrap our arms around this”, and that they “had very little hard data about the impact of these things on a community.” He stated that a University of Rhode Island economic professor completed a “comprehensive, academic study” about the impact of solar development near residential areas. He said that the conclusions of that study were that “there was a significant, substantial damage to all of the properties, to the tune of 5%” when the building of an array “removed a desirable farm, forest”. He said that there hadn't been any evidence to his knowledge that that outcome would change if they “put up a berm or unless you plant more, you know, little trees and bushes” to screen the array. He said that the “impact is [felt] evidently up to a mile”, which he said would encompass “everything in Hopkinton between Locustville Pond and Wyoming Pond.” He said that even if a person could not see the array from their home, he claimed that there was “nothing in the study that says that that's mitigated in any way”. He said that the Comprehensive Plan “is very clear about the nature of uses that are permitted”, and that “there's no amount of berms, there's no amount of shrubberies, you know, you can't import birds from South America” to

alleviate the impact of the array. He said that “it’s not an appropriate use” and that “it was inappropriate then and it’s inappropriate now.”

The next member of the public to speak before the Board was Eric Bibler, of Woodville Road. He said that he wanted to “alert the Board” that there was “a lot of confusion around tonight’s meeting”. He then said that there were “some people that are not here this evening that” he thought “would also like to comment”, so he hoped that they would not “close public comment entirely.” He then said that he had “just a couple of questions on the material that’s been presented.”

Mr. Bibler: “The, um, the sight lines that were – a sight line to the solar field that was presented from a residence on the ground floor – have any, has any work been done to, uh, determine what the sight lines will be from a second story, of a house, that is an abutter, or a deck?”

Mr. DiOrio asked Mr. Cherenzia to address that question. He said, “The answer is no.” Mr. Bibler continued.

Mr. Bibler: “Okay, so, obviously, everybody doesn’t live in a one-story house. I think that’s important. Second thing is – this has come up before, on other solar projects, um, the one that comes to mind is Revity, where the Planning Board made a pretty strenuous statement that the, um, that the developer does not get credit for the buffering, uh, from trees on abutter’s properties. Uh, one of the plans that we saw, that described all the trees that were buffering the view – the vast majority of those trees, that were characterized as being 25 feet and taller were on the property of residents, so, uh, one of the other things that I don’t think was done was any sight lines from the boundaries of any of these properties. If you own a property, you own it to the edge of your property. You’re not obligated to maintain trees on your property you don’t wanna be, you know, to buffer the site of the thing that you don’t wanna see. So, I would urge the Planning Board to take into account that, um, there should be no credit given for buffers from trees that belong to abutters, uh, on their own property, and I think it’s, uh, very important that you, um, you know, these solar panels, from the look of that one view we saw, are gonna be marching up the hill, you know, away from these properties that are a lower elevation, so it’s going to be very hard to hide them, even with an 8-foot berm. That’s especially gonna be true from, uh, to, you know, from a tall house.”

Ms. Light mentioned that she thought the berm was to be 12 feet¹. Mr. Bibler replied that he thought it was 8 feet, but that “whatever the size is, you know, it’s finite, and if you have a grade that’s riding, you know, um, it may not be sufficient to block those views.” He continued.

¹ Condition #13 of the zone change decision calls for the following: “The applicants will construct a 175-foot setback from Skunk Hill Road with 12-foot berms along the approximately 800-foot frontage along Skunk Hill Road. Also, the applicants will construct 12-foot berms along the eastern border with 120-foot wetlands and shading setback from the tree line. Evergreen trees will be planted along the top of the berm with shrubbery along the sides in order to shield the panels from being seen during any season from Skunk Hill Road.”

Mr. Bibler: “Just asking it to consider that. Um, another issue that’s come up on many projects is that, uh, sometimes we have these buffers that are promised, they’re planted, and that’s the end of the obligation. The, uh, developer goes away. Um, so, um, I just wonder whether there’s gonna be – would be any provision to maintain the trees on top of the berm. What happens if they’re planted and they aren’t properly cared for, and three years later, they all die, and so these trees that were intended to be, you know, 15, 25 feet, uh, may, you know, may not exist, may die, may have gaps, you know - that’s another issue. So, we’re really, we’re counting on this berm to do a lot of work. So, that, those are just my questions and comments on this aspect of it.”

Mr. DiOrio thanked Mr. Bibler. The next member of the public to appear before the Board was Jim Dillon, of Lisa Lane. He said that he wanted to “look at a specific part” of the plan set “and ask a question” – after he said that he agreed with his neighbor “that, really, this is not the place to put it”. He stated that “if it’s gonna have to be put there”, he wanted “something else known.” He continued.

Mr. Dillon: “We just had a nice little storm. It was a tropical storm. It took down a lot of trees in my neighborhood. It took down my best tree. If I can point out, and ask this question, there’s a gap in this berm, okay? My house is there.”

Mr. DiOrio asked to interrupt for a moment. He asked Mr. Dillon to repeat what he said while pointing to the plan set at the microphone so it could be captured for the record. Mr. Dillon actually spoke so loudly and clearly that he could be heard standing across the room from the microphone.

Mr. Dillon: “I want to point out this gap in the two berms. I’m right here. The tree that they’re saying are gonna block the view are more than 90% deciduous trees. We don’t have leaves on those trees more than six months a year. We have less than that. This is New England. We all know that we get a long winter. My question is, ‘Why not have the berm continuous, so that the views for these houses don’t go directly up into the field of solar?’ My house here, on the corner – my best tree was here. It got knocked down – my view is now gonna be that way. That’s nature. The berm only comes to here, so anything from here down, I’m gonna see, and anything in this gap – I like, I’d like to see that gap be filled, and not depend on trees that could easily come down if we got, uh, a storm like they had in New Orleans – I know it’s once every hundred years, but we lost a lot of trees. Now, I will repeat for the record. I’m trying to find out – is there a way that that berm can be extended completely? Fill that gap. Don’t depend on, again, as Eric [Bibler] said, mostly neighbor’s trees – trees that can easily come down in hurricanes if we, you know, if – we know hurricanes are more and more frequent. We’re getting them more often. I lost the best tree on my property. I never thought it would come down. Unfortunately, it did. Now – but that’s, you know, that’s on my watch, but these other trees – they’re deciduous, so six months of the year, you’re going to see through ‘em, okay? That’s, that’s just a fact of life. Uh, why can’t we have the berm continually extended is my question – that if I have to have this in my neighborhood, which I really, really don’t want – and I am one of the 150-foot abutters, so, uh, those are my questions for the Board and for the people putting this up. Thank you.”

Mr. DiOrio said that they would see if they could “get [him] an answer”.

Mr. DiOrio: “Who on the design team can field that question?”

Mr. Craven: “I’ll try not to be as wordy as Sergio [Cherenzia]. The answer is, ‘Yes.’ We can continue the berm.”

Mr. Dillon: “Okay. I, I appreciate that. I appreciate the time, uh, I’d like to say one more thing. I was sitting at home. I had no idea that this was gonna be a live meeting until my neighbor called me to say, ‘Boy, this is live! It’s not on Zoom.’ The Zoom, I was watching at home. I know you guys tried. You had some technical difficulties. We got the audio, but my wife’s sitting at home and she’s watching. She can’t see any of this, none of that, so anyone who’s home on Zoom isn’t getting the great effect that we had before. Um, I don’t know why we weren’t given any kind of notification that this was going to be a live one, when the last four, which I’ve watched, ‘til ten o’clock, getting to this. Uh, maybe we can do a better job on that the next time. Thank you.”

Mr. DiOrio thanked Mr. Dillon. Ms. Light stated that the Board was “live last month, too.”

Ms. Light: “We were here.”

Mr. Dillon: “But you used the camera to point out all of these things, which you’re not doing this time. Nobody at home gets to see that.”

Mr. DiOrio said thanked Mr. Dillon for bringing that to the Board’s attention. He then asked if there “was anyone else in the audience wishing to be heard.” The next speaker was Greg Ahnrud, of Grancera Drive. He said that he had submitted a letter, but that there were a few things “that haven’t really been answered or come up”, so he would “breeze through those”.

Mr. Ahnrud: “Um, the biggest one that – on the southern portion of the whole property – I don’t know if I need to go up and point it out on the map, but there’s kind of a choke point that’s extremely narrow, um, at, between the Gordon property and properties, um, ours, on the end of Arcadia, and then – what’s the name of – I’m sorry, Grancera, and then, uh, the other development off Arcadia. Anyway, comes down to a very narrow point. I believe it’s about 60 or 70 feet wide. That’s right where a road is supposed to go through. There’s also a river that goes through that, um, as well. I wanted to clarify – is there, uh, that same hundred-foot setback required for a road going in there?”

Mr. DiOrio asked someone to point to the portion of the site plan that Mr. Ahnrud was referring to. Mr. Cherenzia and Mr. Ahnrud conferred by the easel about the location he was referring to. Mr. Cherenzia said that he was going to try to use the best descriptors he could to explain the location.

Mr. Cherenzia: “So, as you enter the site from Arcadia Road, we’re following an existing, uh, drive. It’s a dirt pathway. Um, it goes from east to west, and, uh, and it follows the, more or less, the property line along the southern boundary of, of that property. Um, it then goes in a northwesterly direction, uh, to a crossing, uh, in the wetland, and I think

that's the stream or the river that, uh, I'm sorry, I didn't catch your name, but this gentleman was, was alluding to. Um, his question is, is that, uh, the, the, uh, the road that comes through there, I believe – is it subject to the same hundred-foot setback off of the property line, and my understanding is that hundred-, hundred-foot setback is to the arrays, and not the access drives, um, that are approaching the arrays.”

Mr. DiOrio asked Mr. Ahnrud if that was the question that he was asking. Mr. Ahnrud said that it was. He had a second question.

Mr. Ahnrud: “So, the second question was – the river that's right in that same vicinity, um, is currently forwarded – it's, so, there's that small path right now, it just – the river goes right over the top of it. I was, um - that river goes right into our property. We have a bridge that crosses it, and we wanted to know what the plans were for that, and how that's gonna be impacted by drainage. I know we can't get into the tiny det-, details right now, but, we would like to know that, since it goes immediately into our property, within 30 feet or so.”

Mr. DiOrio: “Understood.”

Mr. Cherenzia: “Um, so, as I alluded to before, there's a DEM [Department of Environmental Management] permit that we have to obtain. Uh, we are going to – as part of that, we have to, uh, we will have to evaluate, or Woodard and Curran, working with them, they'll have to evaluate that we don't impact the drainage ways that are currently, uh, go through, through that area, with the crossing that we're proposing, um, and there's actually an existing crossing that's already there. We are going to have to improve it, uh, to a certain extent, which will require DE-, full DEM [Department of Environmental Management] approval, um, and, I, as part of that, we do what's called an impact avoidance and minimization. Um, typically, uh, existing trails and drives, um, albeit, if they're, uh, you know, if they're underutilized now, we would improve them so make sure that they're safe and passable, but, at the same time, um, do not impose any more impact on the environment, uh, than is, is necessary. That's where that impact avoidance comes from. We avoid as much as possible, taking the, the least impactful path. So, albeit that we'll be using that path, we will have to improve it. The, uh, the water course will not be impacted, and we have to prove that, uh, to the, to the Rhode Island DEM [Department of Environmental Management] as it's under their jurisdiction.”

Mr. Ahnrud: “I guess, last – just to clarify, as well, um, with the road – is there any setback requirement, um, with this road going in?”

Mr. DiOrio asked if he was referring to the “setback from the boundary”. Mr. Ahnrud said, “Yes”, and that he was referring to the boundaries of his property. Mr. Cherenzia replied that it was his “understanding that driveways do not require any setbacks.” Mr. Ahnrud said that that was it, and he thanked the Board. The next person to appear before the Board was Jane Tapley, of Lisa Lane.

Ms. Tapley: “Um, I just wanted to add in, um, a little bit about what we were speaking of before, with the sight lines. I'm very close to the proposed berm, and I do wanna make sure that this is sufficient – that not just standing on the ground you can't see anything, I don't wanna see anything. We only have one level, which is great for these purposes

here, um, but I do wanna make sure that [when] we look out the window, I don't see solar panels, that we stand on our deck, or go in our pool, and I don't look out at solar panels. I'm very concerned about this, that this is gonna just ruin the whole look and feel of why we moved down here. It's very close. Um, I don't feel that this is the correct place for this type of installation. It's far too large. This is a residential area that they are proposing this in. Um, I mean, I wouldn't be opposed to something on a smaller scale. Um, I'm also concerned that, if this does go through, in the building phase of this, that, just – what would the traffic be like? Truck traffic coming on Arcadia Road and Skunk Hill Road, and these are narrow roads. These are roads that, you know, people are walking and bicycling, jogging. You see people out there. It, I can't even imagine what, what it would be like, and how long, um, this would take to get, you know, trees out and materials in, and to just build this massive array. Um, so, I just wanted to voice those concerns, and, um, I guess that's about it right now. I did submit a, a letter to some of the Planning Board members, and I hope, hopefully, you read it, and, um, I just wanted to, to make that known – that, that, you know, this is very close to, to my backyard, and I guess that's it. Thank you.”

Mr. DiOrio thanked Ms. Tapley, and then asked if she could point out where her house was in relation to the proposed project, so he could have “a feel for [her] concern.”

The next person to appear before the Board was David Pierce, of Arcadia Road.

Mr. Pierce: “I am, uh, at the point where, uh, hopefully, I'm not gonna see any solar panels, but I will be looking at, I'm guessing, some, a number of telephone poles that, presently, we do not have any telephone poles on that side of the road, and this view is my view out my kitchen window. So, my question is, um, how many telephone poles am I gonna see in this field, uh, before it connects to the existing electrical system?”

Mr. DiOrio asked Mr. Pierce to point out on the map where his property was with the assistance of Mr. Cherenzia.

Mr. Pierce: “Now, to my understanding, according to all the Public Hearings that we had with the Zoning people, um, back a year ago, whatever it was, uh, all the wires for this system was supposed to be underground, up to some point – I don't know what, what point that is, but, um, that's why my concern is the telephone poles, because that's gonna be my view out my kitchen window, so, I, I, would like to know if that's still gonna happen, and possibly make a suggestion that, um, according to the presentation that they did at the Public Hearing, all these, um, wires were supposed to be – they were gonna be drilling underneath the soil, underneath the wetlands, and doing that. So, uh, if that equipment is there, what I would suggest is putting one or two electrical panels on the side of the road where I live, and going under the road, and comin' up the other, uh, side of the road, to existing telephone poles. Um, now I don't know if that's still the plan – for them to drill under all these wetlands, uh, uh, or not – nobody's talked about that at all.”

Mr. DiOrio said that the Board would get him an answer to that question. Mr. Pierce continued.

Mr. Pierce: “So, there are no berms, blocking my view of some new telephone poles – however many there’s gonna be. Hopefully it’s not anything like what’s going on on Route 91.”

Mr. DiOrio asked if the applicant had an answer for them. Mr. Cherenzia responded.

Mr. Cherenzia: “Um, so, at this time, we don’t know exactly how many poles, but it could be as many as, we, we think, approximately seven poles that would be, um, clustered at the entrance to, to the Arcadia site.”

Mr. DiOrio asked Mr. Cherenzia about the “underground scenario”, and if that was “off the table”. Mr. Cherenzia asked if he meant “the ability to put [the connection] underground as opposed to [on] poles”, and Mr. DiOrio replied that he meant, “underground, maybe, to an area that’s more into the site”, though he did not know if that was discussed.

Mr. Cherenzia: “My, my experience is they typically, for intergra-, interconnection, they need a certain number of poles in that area for certain disconnects. Um -”

Mr. DiOrio: “I understand.”

Mr. Cherenzia: “Yeah. I don’t know if it’s feasible to go underground.”

Mr. DiOrio asked Mr. Pierce if it was his “representation that at some previous hearing, there was a different strategy presented”. Mr. Pierce said that he had gone to “all the Public Hearings”. Mr. DiOrio asked which ones he was referring to. Mr. Pierce replied that he was referring to the ones where “they changed the zoning”.

Mr. Pierce: “They told us, at those Public Hearings, that they will be drilling under the wetlands, because all the wires will be underground.”

Mr. DiOrio said that he understood. He said that he did not think that they had “an answer to that right away”, but that it was “incumbent” upon them “to, perhaps, review those proceedings in light of what’s being currently presented.” Mr. Pierce said that that was all he had for the applicant at that time. Mr. DiOrio apologized that they did not have that answer for Mr. Pierce at that time, but that it was “duly noted.” Mr. Pierce thanked him. Mr. Cherenzia asked Mr. DiOrio if he could put something else on the record.

Mr. Cherenzia: “If I may, Mr. Chair – just want to also put on the record that there are a series of poles that extend into the property cur-, currently, right now, uh -”

Mr. DiOrio: “In that same area?”

Mr. Cherenzia: “In that same area. It will not be the same, uh, you know, uh, density of poles, but there are poles that run into the property over there, to, to get to the properties beyond it.”

Mr. DiOrio then asked if there were any other members of the audience who wanted to be heard. When he did not hear from those in attendance, he asked Mr. Ryan, the attorney

for the objectors, if there was something he “wanted to add to the mix.” Mr. Ryan appeared before the Board.

Mr. Ryan: “Um, we had a lot of confusion about, uh, the last couple of meetings. In fact, the first one, the notice was defective, so scheduling witnesses was, uh, very difficult – I mean expert witnesses, and then, uh, following the Superior Court decision last month, and then another decision that had nothing to do with this case, by a Superior Court Judge in Providence Superior Court, last week, regarding a Planning Board hearing, and whether neighbors did or did not have to present expert real estate testimony, on the impacts to their property, um, we’re in a position where we have to do so – and we have engaged the services of an expert, and Linda Steere will be our wetlands biologist. Additionally, um, the Solicitor for the Planning Board sent a, an opinion letter to Mr. Craven and I this afternoon, which I’m not gonna be able to respond to this evening, and I would say to the Board that I will get my response to the Solicitor, and to Mr. Craven, at least a week ahead of the meeting. The problem is – the October 6th regular meeting that you would have, our expert, real estate expert, is not available. She’s literally available every Wednesday between now and October 6th. Linda Steere, um, is available, uh, again, every meeting but the 6th of October. Aft-, September 15th is Yom Kippur, and in this day and age, I can’t imagine scheduling any public meetings on any religious holiday, um, that’s commonly observed, and so it leaves us with the 22nd and the 29th of September as the dates, and I – if the Board would have a special meeting, those are the two available dates for my witnesses.”

Mr. DiOrio thanked Mr. Ryan, and turned to Mr. Lamphere for scheduling. He said that the 15th was “obviously off the table for very good reasons”, and that it was “probably the opportunity to talk about whether the Planning Board is postured” to have a second meeting, or some other alternative arrangement. Mr. Lamphere said that he would suggest September 29th. Mr. DiOrio then asked the Board if they were amenable to a special meeting on that date. A number of Board members said that they would not be available. Mr. DiOrio asked what the next option would be. Mr. Lamphere explained that Ms. Hogan would not be available on September 22nd. Mr. DiOrio asked if they could “consider a special meeting in October”, and Mr. Lamphere replied that they could. Mr. Ryan said that that would be “fine.” Mr. DiOrio said that they would be having a regular meeting on the 6th, and explained his availability. The Board discussed their availabilities. Mr. DiOrio suggested October 20th as a prospective date. Ms. Light suggested that they check with the applicant. Mr. DiOrio asked Mr. Lamphere and Ms. Hogan if that would work for them. They both replied in the affirmative. The Board was also in agreement with setting October 20th as the date of their next special meeting. Mr. Craven said that one of the engineers indicated that they would not be available, but that they would find someone else from her firm to appear. Mr. Craven agreed to the October 20th date. Mr. Lamphere reminded the Board that they had not taken a site walk, and asked the Board if they wanted to “line one of those up before a decision is, is made.” He noted that the Board would need to “continue this matter to a date certain”, as well as an extension from the applicant. Mr. Lamphere stated that the application was “only valid through September the 8th”, so they would “need an extension past that October 20th.” Mr. DiOrio asked Mr. Craven if he was willing to approve the extension. He replied that he was.

They decided that the extension would last until November 3rd. Mr. DiOrio said that it would get the Board to the next meeting. Mr. DiOrio then returned to the discussion of site walks. He said that he didn't "want that to get in the way of [the Board] scheduling October 20th." Ms. Hogan said that as the Board needed to participate with two by two, they could arrange the site walks "administratively", by working with the applicant to find dates and times where they would be available to show the property to the Board members. Mr. DiOrio said that if there wasn't anything else that needed to be added to the discussion that evening, he was "prepared to entertain" a motion to continue the discussion to "a special meeting on Wednesday, October 20th" at 6:00 p.m. Mr. Craven thanked the Board for their "attention", and said that he would see them in October.

Mr. Prellwitz made a motion to continue the discussion to a special meeting on October 20th at 6:00 p.m. It was seconded by Ms. Shumchenia.

In Favor: DiOrio, Prellwitz, Light, Lindelow, Shumchenia

Abstain: None.

Opposed: None.

5-0, the motion passed.

Preliminary Plan – Public Hearing – Brushy Brook – 140-Unit Comprehensive Permit – Plat 32, Lots 1, 4, 6, 8, 10, 12, 14, 16, 17, 21, 23, 25, 27, 30, 32, 34, 36, 38, 40, 41, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 63, 65, 67, 68, 69, 70, and 71, located at 130 and 0 Dye Hill Road, 0 Brushy Brook Drive, 0 Wedge Road, 0 Green Lane. LR6-A Owner, LLC., and Realty Financial Partners, applicants.

Bill Landry, the attorney for the applicant, appeared before the Board. He explained that they had begun the Public Hearing process on August 4th, and they "took away from that meeting, uh, a list of tasks that the Board, and in certain cases, the, the members of the public identified as being important to address, as this review stage, uh, proceeds". He said that "it was clear at that meeting that the Board was going to have its outside consultant, uh, Crossman Engineering, tackle one of the issues that came up that evening, and that was the whole business of, uh, off-site improvements."

Mr. Landry: "Uh, and that issue involved the, the memo, uh, from 2010 by the DPW [Department of Public Works] Director, and, and what was meant by those requirements, and the issue of feasibility and practicality and that, that was a, an issue that consumed a, a, a good segment of that, uh, of that meeting, uh, and there were a number of other concerns that the, the Board raised – the, the need for some type of, uh, testing, uh, of the, of the aquifer and wells, as opposed to additional study, and, and opinions and so forth, and some additional information on the community septic systems. Uh, there are other issues, as, as well, that the Board identified. Uh, we, we did, uh, have contact from Crossman Engineering. We received, uh, you know, their usual, very comprehensive, uh, report. We, we received it on August 25th, which was last Wednesday, um, and so, we've had, you know, four or five business days to evaluate that report. Um, it didn't get to the issue of outside – and I assume that you, you've read the report – it didn't get to the issue

of, uh, off-site improvements, except to point out some technical, uh, observations. That was something that was left for a further, uh, memorandum. The report identified itself as Memorandum #1, and was a preliminary memorandum on a number of engineering issues. Uh, it did cover some of the other, uh, concerns the Board had, including the one I just mentioned – the, the desire to have some type of a testing protocol here, and not have this process be completed without some provision for real, uh, wells to be dug, and, and real results. That, that was something the Chair underscored, and it makes an awful lot of sense. We have a lot of paper that's piled up over the, over the years on those issues. Um, after sending, uh, Eric [Prive], our report, Steve Cabral – very capable, uh, guy – contacted Eric [Prive] and suggested that, instead of trading, you know, huge reports, that the engineers get together, perhaps go out, out in the field, look at the off-site, uh, improvements, and have a professional exchange on these items. There, there are 45 things that were identified in the, in the report – six or seven pages. 29 of them are numbered, but several had bullet points, with additional comments. The vast majority, number-wise, are technical – the usual technical comments that we're used to, uh, seeing. You know, uh, adding contours on certain pages, uh, more space between the sewer pipes and the water pipes, additional grading in certain areas, uh, tweaks to the design of the storm water ponds, uh, redi-, designation of sub-catchment areas in the drainage, uh, program. Uh, you know, those are things that professionals can work out, and I don't, you know, see any, any major issues with any of those things. Um, the, uh, the balance were some of those bigger picture items, like off-site improvements that still need to be worked on, uh, and the protocols for additional testing and so forth, and additional information on the community septic. Uh, so that this process can proceed efficiently, we think we have to provide, uh, Steve [Cabral] and his firm with information that's pertinent on, uh, these issues. You know, we've gone back now, and, and looked at those studies, and, you know, there was a tremendous amount of work that was done, uh, with respect to testing the aquifer, neighboring wells. LFR did a, a huge study, very comprehensive, to try to understand the aquifer and the water availability that's there. Um, and then GZA was hired, and for almost a year, we had these meetings, once a month, where GZA would come in and provide reports. Um, uh, RAB Engineering, which is now Beta [Group] prepared a, a number of, of reports and analyses on traffic issues and off-site improvements, and those – I don't know if, if Crossman [Engineering]'s even aware that that data base exists. We all agreed that it's not enough to just say, 'There were a bunch of studies in 2010. Let's go ahead and, and, and build this project,' but we want to make sure that they, they have those items, we're all on the same page, the engineers can get together, and maybe take something that's this big, and make it, you know, this big, uh, for, for all of us, and, and we'd also like to be, you know, reasonably comfortable. There's always something that comes up that somebody never thought of, but we'd like to be reasonably comfortable that we're working from the – a list of the issues that are really on the table, and that, you know, we, we can, we can start with that universe, and pare it down, you know, without a lot of new things comin' up, and that, that's something else that could be vetted in this process that's gonna take place between, uh, Eric [Prive] and, and Steve [Cabral] – and I, I don't want to speak for either one of them. I know Steve [Cabral] is here, but, uh, it seems like this was something that the two of them thought would be a really good idea. Um, so my suggestion tonight, um – now, you may want to have Mr., uh, Mr. Cabral go through his memo. I'm not gonna tell

the Board what to do, but I do think it would make a lot of sense for the engineers to get together, for us to be able to provide some responses, in writing, like we usually do, but after there's been a face-to-face meeting, so we don't have just big piles of memos going back and forth. Again, we received this the day that the, the, the agenda closed for new submissions, last Wednesday, so – and it, you know, there's a, there's an awful lot here, to, to tackle, and rather than get into one or two or three things, you know, our, our preference would be to have that process take place, and come back, uh, next month, ideally. You know, maybe that's not enough time – one month, but we'd like to at least have it as a placeholder, uh, in the hope that we can, you know, we can reach agreement on as many of these issues as possible.”

Mr. DiOrio replied that he did not want to speak for Mr. Cabral, who was in the audience, but that he had taken a look at the memo that Crossman Engineering had provided to the Board, which contained “a lot of technical stuff”. He said that it was his “preference” to have “the design professionals kind of sort this out”, but that he would “wait to hear what [his] colleagues” would “have to say” about such a scenario. Ms. Shumchenia and Mr. Lindelow were amenable to it. Mr. Prellwitz said that if they got some “good hard facts”, he would be “amendable to that” as well. Mr. Pennypacker asked how they would “keep this transparent”. He continued.

Mr. Pennypacker: “How would we keep this process transparent? I know that as a Board, we are required to, uh, you know, make sure that we don't have a quorum, you know, to prevent a rolling quorum. Uh, is the same res-, is the same thing – does the same apply to consultants from, you know, different parties, in order to maintain sort of an ethical separation? I don't know the answer.”

Mr. DiOrio replied that he was not “quite sure of the question of transparency.” He continued.

Mr. DiOrio: “I mean, it's commonplace for an applicant's professional and our consultant to sort out what happens at Station 2+0.”

Mr. Pennypacker: “Sure.”

Mr. DiOrio: “Without us making it a public issue – but, is that your question? I'm not quite sure.”

Mr. Pennypacker: “No, I, I, I understand that there's back and forth, and there always is. I guess what I'm, what I'm wondering is, ethically, the Town hires a, an engineer that's separate from the applicant's engineer, to ensure that, you know, nobody's getting paid by the wrong person. If you take those two people and you put 'em together, they're gonna have a private conversation, and no one knows what happens. Do, do we lose that sort of ethical separation?”

Mr. DiOrio replied that they did not, as the consultant would return to the Board, “saying that, ‘We met on this particular date. This was the topic. We resolved what happens at Station 2+0’, and we're good.” Mr. DiOrio then asked Mr. Cabral to appear before the Board.

Mr. Cabral: “Any time that I meet with the - a, an applicant’s engineer, I also invite the Town Planner to attend, and I make sure that Jim [Lamphere] is aware of the topic, and if he’s comfortable with the topic - that we could meet alone – then we do. So, it’s not as though we meet, you know, at will. We always coordinate it through the Planning Office. Okay?”

Mr. DiOrio asked Mr. Pennypacker if that made him “feel more comfortable”. Mr. Pennypacker replied that he wasn’t uncomfortable, he just wanted “to make sure that we weren’t opening the door for some sort of, uh, questioning down the road.”

Mr. Pennypacker: “If it expedites the process, I’m all for it, because I don’t need any more of those papers.”

Mr. DiOrio said it was a “good question”. Ms. Hogan then weighed in.

Ms. Hogan: “Mr. Chairman, I would also note that, um, in other towns, larger towns that have more resources, um, they have what’s known as a technical review committee, that vets these technical issues amongst all the various professionals, and then the Planner is able to reduce that down to a manageable report for laypersons who sit on the Planning Board – some laypersons. Um, so, I, I think, to the extent that you can have the technical details worked out, hammered out, and then you get a concise recommendation from your consultant, um, is the best use of the Board’s time. I, I also think there are no ethical issues whatsoever in regards to that standard practice, um, and all the ethical requirements, uh, applied to the sitting Board members, and not to professional staff.”

Mr. DiOrio thanked Ms. Hogan. Mr. Landry then spoke before the Board again.

Mr. Landry: “Mr. Chair – just, uh – I think what Miss Hogan said – the last piece was very important – that what comes out of this are still recommendations. They’re not – these folks are not deciding anything, uh, for either, for either party. They, they remain - until the Board passes on them - a series of recommendations.”

Mr. DiOrio said that the applicant was “gonna take a little time” and “sort this stuff out.” He asked Mr. Landry if it was his recommendation that the Board “continue to a date certain”. If so, he was going to have to coordinate the placement of the proposal on a future agenda with the assistance of Mr. Lamphere. Mr. Landry replied.

Mr. Landry: “Our preference would be to have it on the next agenda, and as a courtesy to the Board, and to Jim [Lamphere], we would, uh, check in with him, you know, as we get close to that date, so that he can understand, and the Board can understand, what its calendar really is gonna look like on that day, and not tell you the day before that, uh, you know, we need another, we need another month. Jump rock to rock that way, so that we can, you know, make an effort to be ready to come back in October. It feels like a lot, to me, to be able, uh, to do, but, um, if we can’t, we’ll let you know in a timely way, and then maybe go off to the following month.”

Mr. DiOrio asked Mr. Lamphere how the agenda looked for the following month. Ms. Hogan interjected that they should arrange a site walk for the Planning Board members. Ms. Light jokingly suggested that they use golf carts. Mr. DiOrio said that that would be a good idea. Mr. Landry said that he was amendable to that. Mr. DiOrio reiterated his question to Mr. Lamphere about availability on the next agenda. Mr. Lamphere replied that he was “planning on bringing this back for October 6th anyway”. He explained that they had “an extension in effect until October 13th”, and Mr. Landry confirmed that that was correct. Mr. Lamphere noted that even if the applicant contacted him before the meeting to state they were not ready, “at least this will be on the agenda, because we’ll have to continue the, uh, Public Hearing to another date certain”. He said that he would be “looking for a motion from the Board tonight as well, to continue” the Public Hearing to October 6th. Ms. Hogan said that she would request “a written communication” about the extension for the “completion of the review” from the applicant “too, so it’s in the record”. Mr. Landry said that they would not “request an extension without correspondingly extending the Board’s time” to review the project. Mr. DiOrio asked the Board to make a motion to continue. Mr. Lamphere interjected to ask Mr. DiOrio if he would be “willing to entertain any potential comments from the public”, as they were “in the midst of a Public Hearing” that was still open. Mr. DiOrio replied that he could “certainly do that”. Mr. DiOrio asked if Mr. Landry would accept that, and he replied, “Of course.”

The first member of the public to appear before the Board was John Orlandi, of Dye Hill Road. He explained that he owns the “property in front of Brushy Brook”, and that he was worried about his “28-foot driven point” well. He continued.

Mr. Orlandi: “There’s two ponds. One is 200 foot from me, and the other one is 400. Uh, I make ‘em out to be about 165 feet. I don’t know how deep or how much water they’d hold, but these are gonna hold the water from all the runoff from the roads and everything else. Uh, is it possible for them to move them a couple hundred feet back, and put the exit, uh, where, wherever the water exits out in a different direction, so it don’t – excuse me – so it don’t come downhill.”

Mr. DiOrio asked Mr. Orlandi to “hold that thought”, and said to Mr. Landry that he was assuming that Mr. Orlandi was referring to “detention basins of some kind”. Mr. Orlandi said that that was the case. Mr. DiOrio then asked if they could “consider a possible relocation, if that’s feasible.” Mr. Landry said that they would “add that to the list of things” for the applicant to consider. Mr. Orlandi thanked them, then continued.

Mr. Orlandi: “Uh, yeah, there’s 25 foot between – about 25 foot between the edge of my property to the, uh, entrance road. Uh, we would like it to be as much vegetated as possible, so we don’t see the cars comin’ down. Bad enough they’re gonna be comin’ by the front of the house, but, at least, block that much of it. Uh, and then one other thing – the septic, uh, which – we just lost our power this week – each septic system is gonna have a pump. What are they gonna do when we lost power, like this, for a couple of days?”

Mr. DiOrio asked Mr. Orlandi to “hold that thought” as there was an “address of this” issue. He said that “somebody else asked this question, and it was addressed.” He cited Comment #12 from the DiPrete Engineering Response Memo dated August 23, 2021. He asked Mr. Prive to appear before the Board.

Mr. Prive: “Uh, yeah, that’s correct. So, uh, we, we did have that as one of the responses for Comment #12 in our memo for – I believe this was also on the Town website, uh, as well. It’s an August 23rd memo that, that I had written, um, and yes, the septic systems do have pumps. Um, typically in, uh, downed power situations, uh, greatly reduced in water consumption, right, because people aren’t typically taking showers as much, water heaters are going down because the electricity is out, uh, assuming they don’t have generators themselves, um, but the pumps they had, they do have a three – about a three-day storage that they can hold, the septic tanks can hold directly on the site, so, other than that, um, it’s, it would, at that point, it would start to back up just like any septic, you know, would as well. So – but it’s a three-day storage that comes with it, as well.”

Mr. Orlandi asked Mr. Prive what would happen “when it backs up”, and wanted to know “where does all that stuff go.” Mr. Prive responded.

Mr. Prive: “So, typically, like anything – if my, if when I flush, if I had a problem, and it was coming into my own tub, I would stop flushing, and I would have to find other ways to do things.”

Mr. Orlandi: “Into the house? Not into the ground?”

Mr. Prive: “No. Correct. No, everything’s contained in, in the piping into the house.”

Mr. Orlandi: “Very good. Thank you.”

Mr. Prellwitz asked Mr. Prive about generators for this situation. Mr. Prive replied that generator installation was “typically” something that was “done at the homeowner level.” He continued.

Mr. Prive: “Um, it’s – so there would be for – in the, that same answer – for the wells there will be. It’s a, it’s a community, public well, so there would be a generator associated with that one, but for individual homes, not typically. It’s, it’s up to each homeowner. If the homeowner wants to have a generator for themselves – it, it’s not, it wouldn’t be that there was – it’s not like a commercial application, [where] we could have somebody just roll it to, uh, a different area. It, it’s not typical. Each homeowner would be – up to their decision, if they wanted to.”

Mr. Prellwitz replied that from his “point of view”, the applicant’s plan was “to install a whole new community in this area.” He said that 140 homes was “a community”, and he wanted to know why there wasn’t a provision to “supply power to these pumps in an emergency situation.” Mr. Prive replied that it was because they were “individual, so for each house, each pump – each house has its own pump going to it, so the difference on the community well system is that would be in the centralized pump location.” He continued.

Mr. Prive: "That would be saying that 140 homes have to be guaranteed to have generators - one for each home along the way. Um, I haven't seen that being requested of any subdivisions, regardless of community versus non-community wells, uh, I mean non-community septic systems, so, um, it, it's, it's a request that I haven't seen before, quite honestly."

Mr. Prellwitz: "Or just to have them on the emergency standby for the entire system? That doesn't seem reasonable?"

Mr. Prive: "It - it's not something that I've seen before."

Mr. Prive explained that it was "similar to any, any time you have power outages with septic systems."

Mr. Prive: "It tends to regulate itself, right? It, it's - anything beyond three days, people are looking for other avenues anyway. They're going to another location, or they're - you can't, typically, sustain off of a non-power situation for long periods of time, regardless."

Ms. Light: "Is some of the answer that the homeowner owns that? Like I own -"

Mr. Prive: "Right."

Ms. Light: "My septic system, and what it does, it doesn't do."

Mr. Prive: "Correct."

Ms. Light: "Right. So, in this development, the individual homeowners are going to be responsible for your sump pumps and generators and all of that other nonsense. The responsibility for the well is a community issue."

Mr. Prive: "That's correct."

Mr. Prellwitz said that his objective was to "take care of" Mr. Orlandi's "concerns, so we're gonna make sure that you've got plenty of water to put into the septic system, but after that, you're on your own." Mr. DiOrio asked to "follow through on that", and that maybe he was "laboring under a different interpretation."

Mr. DiOrio: "So, I thought your comment was - in a power outage, we don't have to be overly concerned about the pumps and the septic systems, because our water consumption is going to taper down?"

Mr. Prive: "Typically, yes. True."

Mr. DiOrio: "However, are all these folks gonna have water throughout the power outage?"

Mr. Prive: "Yes."

Mr. DiOrio: "Because now - and, again, not, not everyone is conversant in septic and how they work. You can't keep putting water into your septic system if it's not going anywhere."

Mr. Prive: "Correct."

Mr. DiOrio: "So, the water consumption is not going to go down. In all likelihood, it will increase. So, you won't have three days' worth of storage."

Mr. Prive: "No - it typically goes down because what are you typically using water for - you're doing dishes, you're taking showers - your hot water heater is down. So, you're not - unless you're taking a cold shower, so the consumption tends to go down."

Mr. DiOrio: “Yes, but you’re still using water. People will get imaginative. So, I was under the impression that there would be no water.”

Mr. Prive: “There is water. Just -”

Mr. DiOrio: “Ah. So that, that, that really sets up a whole different dynamic, in my mind.”

Mr. Prive: “Sure.”

Mr. DiOrio: “Now, I can use all the water that I want, but I can’t get rid of it. Well, that’s, that’s a lot. Anyway, just a thought.”

Mr. Prive: “Mhm.”

Mr. DiOrio: “I’m not asking you to solve the problem right now, but that would set up a conundrum in my mind.”

Mr. Prive: “There are, there are plenty of locations that have public water and septic systems. I mean, it’s not uncommon to have public, a public water and even individual septic systems. It’s very common.”

Mr. DiOrio: “It can be very common to have it. That doesn’t mean I want it. I understand that. These systems are driven by the electronics, so if there’s no power, this is not -”

Mr. Prive: “Correct.”

Mr. DiOrio: “Like a gravity system.”

Mr. Prive: “A-, agreed. 100%. Yep.”

Mr. DiOrio: “Where you don’t have to worry about it.”

Mr. Prive: “Correct.”

Mr. DiOrio asked Mr. Cabral if he had a comment. Mr. Cabral appeared before the Board. Mr. Cabral said that, at this point, they did not have “the design of the septic systems and pumping systems, but there was just one comment” that he wanted to make “before they design the system”. He said that, “typically, with these Advantex pumps and septic tanks, the, the water level varies.” He continued.

Mr. Cabral: “You know, it’s full, the pump comes on, it goes down. So, if you’re a homeowner where the tank is just about to turn on, your tank is full. So, we’re really not going to have any capacity. So, I just wanted to make sure that when, when we say we have three days’ worth of storage, that’s probably assuming that the tank is empty – but half of them are probably going to be full. So, we just want to make sure that that’s addressed, you know, when you see the design.”

Mr. Pennypacker said that he kept on “coming back to Condition #3 of the approval, where it says, ‘the applicant shall provide public drinking water wells unless proven infeasible, and communal septic with denitrification’.” He continued.

Mr. Pennypacker: “It seems like this has gone backwards, and we’re providing, we’re providing the, the water wells because that is, I guess, feasible, but the communal septic, which doesn’t have the same clause about being infeasible is not there, right? We’re going with individual septic, as opposed to communal septic, and I think that’s where the, the conundrum lies - at least, that’s, that’s the part that I can’t rock, right, because the water, the water’s comin’ in, and the hot water might not be, but where does it go?”

Mr. DiOrio replied that he was going to “respectfully disagree”, as “there is a community septic, septic system.” He continued.

Mr. DiOrio: “The treatment is on the individual lot.”

Mr. Pennypacker: “Maybe we’re defining ‘septic’ differently. I’m, I’m talking about the septic tanks.”

Mr. DiOrio: “No. I’m talking about the dispersal here.”

Mr. Pennypacker: “You’re talking about the leach fields -”

Mr. DiOrio: “Correct.”

Mr. Pennypacker: “And the, uh – yeah. Well.”

Mr. DiOrio then asked Mr. Lamphere if he had any thoughts. Mr. Lamphere said that he would “like to see the applicant here explore other types of community septic systems.” He continued.

Mr. Lamphere: “I mean, I can, I can think of condominium units of – one in particular I can think of, in Charlestown. There’s a hundred and fifty condos in this development, and they just put in – matter of fact, GZA just designed the system – it’s, it’s, it’s for the condominium development, and it’s a packaged plant – needs denitrification, had to be denitrification because you’re in the sand plain area, and it was put in right there, and everybody’s effluent goes to this thing, where it’s treated for nitrogen communally, and, and just, uh, disposed of. And on-, once the nitrogen is taken out, I don’t think you have a problem about so, so much as to where it’s going.”

He said that in his mind, “even in the city areas, where you have sewer systems, when, when you lose power – up in where I grew up, you have water coming into your house, and it goes out your house.” He continued.

Mr. Lamphere: “You can flush your toilet. You can take your baths. You don’t have electricity, but down here, in these areas, we rely on electricity, to get out, to pump our water out of the ground, and to take, and, and then – all these denitrification systems all have an electronic component, so it’s not just, it’s not just the homes in that development, but anybody that’s got a denitrification system. When you lose power – if you don’t have it hooked up to a generator, you’re done. So, I mean, in my mind, for 140 homes, to go in there, it really demands a packaged plant like this, like this project in Charlestown that I’m thinking of – that, that takes care of their sewage that way, rather than, ‘Okay, we got 140 people basically on their own for half of, half of the septic system.’ I, I, I, I personally can’t see it myself.”

Mr. DiOrio said that he “would add that that would make a lot of the problems go away”, and “it would also eliminate the issue of the homeowner being responsible for the maintenance of their denit[reification] components, which I still haven’t figured out how that’s going to work.” He said that that would mean that “there are 140 operations and maintenance agreements that have to be executed.” He continued.

Mr. DiOrio: “They have to be inspected once a year. If somebody’s gonna cough up the three or four hundred bucks for that contract to remain in place, the package approach – and, again, I’m wandering outside of my area of expertise – would certainly eliminate all those issues.”

Mr. Pennypacker said that he also liked what Mr. Lamphere “was talking about”, and that he had “one last thing to point out.”

Mr. Pennypacker: “When the power was out for three days, in my neighborhood, I think everybody on my street could, except for one house, had a generator running, and it was a gas generator. It’s, it’s noisy. Mine’s gas – it’s noisy. Um, I have solar panels on my roof, and I have the opportunity to put a battery in my basement, so it’s – there it is, there’s power all the time. So, the proliferation of power during outages – it’s there. I – it’s accessible. So, if – I can imagine of the 140 homes, I’d expect at least 70 to have some sort of backup power system installed – possibly more – particularly as we get further down in the phases, and that better technology comes down in price. So, it, it makes more sense.”

The next member of the public to speak before the Board was Eric Bibler, of Woodville Road. He said that he was “not conversant with all the details of the communal septic system”, but he “just wanted to raise a concern from [his] personal experience.” He stated that he lives in a “residential compound” – which had been surveyed by Mr. DiOrio in around 1985 – with “seven property owners that are part of the Homeowners’ Association, basically.” He said that they had “to contribute dues to maintain” the private road by “keep[ing] it clear”, getting it plowed, “that kind of thing.” He said that a “communal septic is gonna belong – or the responsibility for keeping this in operating condition is gonna be the responsibility of 140 residents”. He said that he thought that Mr. DiOrio had mentioned “something about 140 different, you know, operating and maintenance agreements, which basically re-, rely on the good faith of all those people, um, being able to administer that process and collect those dues, or whatever they have to do.”

Mr. Bibler: “They probably have to, every year, collect money and, um, build a capital balance, so that at the end of five years or 10 years or whatever the period is, they’re, they’re going to have to do periodic maintenance. There may have – be some ov-, major overhaul that needs to get done in 20 years. You know, septic systems don’t last forever, and I, I just think something – like, you oughta consider whether something like that oughta be bonded, you know, and if, uh, initially, you know, at construction, and then have the homeowners take it over, you know, and then pay that down over time, or some mechanism, because, just on a micro-level, I can tell you that, um, we had two homes, at one point – or different points in time, go into foreclosure, and that process took years, and we didn’t collect those dues, you know, from those homeowners during that period of time. We had other people, uh, plead hardship, um, and it’s been a, just a perennial problem, from time to time, to get people to pay dues – not just on a timely basis, but in arrears and everything else, so, you know, just pragmatically, you know, collecting the money and, uh, administering that entire process so that this communal septic system will

actually work, you know, could be a challenge, and I think there ought to be some, some mechanism that ensures that that happens, and then maybe, you know, the dues get collected against that, or something like that. I don't know what you want to do. I'm not here to design it for you, but I think it's related, you know, to this other problem of, uh, you know, I, I don't see how you can have a system where people have water and they can, they can flush toilets, and they don't understand that's gonna back sewage up into their kitchen sinks, you know, or whatever it is, you know, that just doesn't seem like a feasible system."

The next member of the public to appear before the Board was Sherri Aharonian, of Dye Hill Road. She explained that she was an abutter to the project. She said that she had "read through the memos from Crossman [Engineering]" and that "they did a very thorough job." She thanked them for their work. She said that she had read DiPrete Engineer's comments as well, and she "just wanted to touch on one of them" that had caught her eye.

Ms. Aharonian: "When it comes to the off-site improvements, um, they had mentioned that it's their intent to perform the construction of the off-site improvements concurrent with Phase 1 of the subdivision. I'd like to point out something in our Land [Development] and Subdivision Regulations, that does state that the off-site improvements need to be done prior to the Planning Board issuing any Final approval, and any recording of this project. It's Section 8.6.4. I can read it for the record if I should. Um, I guess I'll just read it – I'm up here. 'Public Improvement Guarantee – Proposed arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees, shall be reviewed and approved by the Planning Board at the time of Preliminary Plan approval. Where the construction of public improvements and infrastructure are required, the Preliminary Plan for Major Land Development Projects and Major Subdivisions shall be valid for two years, unless otherwise authorized by the Planning Board. All public improvements and infrastructure shall be completed to the satisfaction of the Director of Public Works by the developer within two years from the initial date of Preliminary Plan approval and prior to the approval and recording of the Final Plan of a Major Land Development Project [or Major Subdivision], unless otherwise authorized by the Planning Board. A Final plat must be endorsed and recorded in the Land Evidence Records of the Town before any lot or parcel [of land] indicated on the plat can be sold or conveyed.' There's a little bit more, but I'll stop there, because that basically touched on what I was looking to say. Um, the last thing I had tonight was, um, I had submitted a letter, um, to the Planning Board for your packet, and I had asked, um, if it could be discussed, and I didn't know if tonight was the proper venue for that, um, or not. I can certainly resubmit it [at] another meeting if this is not a good meeting for this, but I would like – I would like the Planning Board's thoughts on what I had written."

The Board members asked if that had been provided to them. They were unsure. They said that if Ms. Aharonian had something that she wanted to bring to their attention, she could do so now, even if they did not have the letter. Ms. Jalette stated that it had been included. Ms. Shumchenia finally found it in her packet. Ms. Aharonian said that she had

submitted it, and had “wanted to make sure [she] got it in before” the packets would out the Board. Mr. DiOrio then found it in his packet, and apologized. The Board took some time to read it. Ms. Aharonian said that there were “five topics” that she wanted to discuss, and said “no worries” if the Board had not “had a chance to read it over and think it over”, as the questions “might be hard to answer on the fly”. She said that “positive or negative, you know, feedback, um, would be great to hear, um, regarding these topics.” She said that she wasn’t “looking to put anybody on the spot”, but that she would “just read through them real quick”, though she thought that she had “read this, kind of, at the other meeting, too”. She said that she was “just asking – just for some discussion amongst” the Board, “to see, you know, what [their] thoughts are – positive, negative, whatever.” She began by referencing Page 8 of the Preliminary Plan.

Ms. Aharonian: “Uh, Infiltration Pond G is approximately 400 feet from our house, um, and, basically, you know, a detention pond of this magnitude, catching runoff for such a large subdivision concerns us as far as groundwater contamination, runoff, and erosion, because so much of this is sheeting downhill, um, you know, heading our way, and we’re wondering if the Board could entertain a request of the applicant to move this infiltration pond so it’s not so close to abutters. Um, you know, unfortunately, with this project, you know, everything is right on top of people who already live there. You know, it’s not, it’s not set up against Arcadia [Management], where there’s no one there who’s drawing water, or worried about runoff, because there’s nobody there, but it’s all, it’s all right near us, so, unfortunately, we have to bring these things up. Um, Number 2, due to the - again – due to the size and scope - that’s largely why I’m here, is just because it’s the size of this development – um, similar to a performance bond, can we request, um, that there’s sufficient funds by the applicant in the event there are negative occurrences. I don’t know what it’s called – an escrow? We don’t think it’s a performance bond, because they’re not – performance bond is if they’re putting a road in, I believe, but, um, basically, we’re just looking for some sort of financial guarantee, because of the size and scope, that us, and other abutting property owners are not negatively impacted by the potential size and scope of this project. Um, I had looked on the Preliminary Plan – I couldn’t see the wellheads on it. Maybe I missed it. I just couldn’t find it, um, but I know there’s a pump house, um, pretty close to us, and I don’t know if a pump house is something that’s drawing water. That, that, again, is about 300 feet away, um, so, basically, I’m just looking for a little more protection, um, other than, you know, experts stating that it’s okay, um, because of, you know, and the topography back there is, you know, from what I’ve heard, a little bit rough. Um, we just want to make sure that, you know, water quality won’t change and water flow won’t change with what we currently have now. Uh, Number 3 – since we don’t know who the contractor or builder for this project will be, um, and it’s possible the lots could be sold off to multiple builders, we would like to see a construction management company, hired by the Town, and paid for by the developer. I think they had mentioned that – DiPrete [Engineering] had mentioned that, and I don’t know that they were amendable to that, but I’d like to hear some discussion on it, um, to see what the Board thinks. Um, it was also a lengthy document – I think it was in the prior packet, in August - I don’t know if it was in your packet this time – on storm water facilities, um, and how it raised concerns about potential un-, unmaintained facilities - it, um – because there isn’t a clear ownership and responsibility. The thing with this project,

as you guys know, is there's a lot of onus on the Homeowners' Association – much more so than a usual neighborhood. Many neighborhoods, ours included, they never formed a Homeowners' Association, and I don't think it really affected anybody. Um, this one – there's so many pivotal things that the Homeowners' Association is responsible for, including maintenance of, uh, swales, detention ponds, to ensure that they don't fail, that I don't know how we guarantee that Homeowners' Association will be formed. How do you force somebody to volunteer to be on a Homeowners' Association, let alone put funds into it? That's a question I think we gotta, you know, discuss at some point. Um, I think the last thing – um, this, the last thing was just, you know, basically, that, you know, the Board, please, have them adhere to all the conditions in the Master Plan. Um, probably too premature to talk about road improvements tonight, but, um, that can be at another, another meeting. I guess that's it."

Mr. DiOrio thanked Ms. Aharonian for "refreshing" the Board on "a couple of these thoughts". He said that he "may not be in the position to address every one of them." He noted that another member of the public had already asked the applicant to consider the "relocation of the [infiltration] ponds". He said that the Board was going to "revisit" how to "arrange some protection for existing wells", though he was not "conversant on the mechanism" to do that. He said that that would be "very important". He then touched on the topic of a construction manager. He said that he would "make it clear, both to the applicants and the audience, that, on some of these topics – construction management, deed restrictions, uh, while it might not be the applicant's intention, [with] any motion to approve this project" he would "suggest that these become conditions of approval". He said that he didn't "know how to deal with the Homeowners' [Association] thing", and that he would need feedback. He said that he understood the topic, but that he didn't "know how to solve it". Ms. Aharonian replied that that was fine, and she "just wanted to, you know, bring it up, so that it's at the front of everybody's mind". Mr. Prellwitz noted to Ms. Aharonian that he had already made notes of a number of the things that she had brought up in her letter – "along with a lot of other things".

The next person to appear before the Board was Sharon Davis, of Cedarwood Lane. She explained that she was presenting comments made by Carol Desrosiers, as she was out of town. Ms. Davis had promised to "bring them up", though many of them had "also [been] presented by other people". The first was the "widening of both Saw Mill Road and Dye Hill Road to 22 feet". She said that she still wanted that to happen. The second was what Ms. Aharonian had talked about, in reference to improvements to the roads after Preliminary Plan approval. The third was to request a construction manager, "even though [DiPrete Engineering] did not think we needed one". She said that she thought that they did need one. Mr. DiOrio thanked Ms. Davis for her comments.

Barbara Capalbo, of Lynn Lane, appeared before the Board after Ms. Davis. She explained that she lives in Bethel Village, where they have a water association. She explained that they had such an association "because we have a communal well". She stated that all of the residents had "individual septics, because we have half acre lots, 52 houses in the grouping", and that they "all take care of [their] own septic, period." She

said that they had “just put in a generator” for the wells recently, “for water during something like” the most recent power outage. She continued.

Ms. Capalbo: “Indeed, we don’t necessarily have generators. Your bigger lots, and your bigger houses, may indeed have those, but we had, probably, I’d say five or six generators in the 52 homes. We really didn’t have very many, so, um, I have no idea what they had a problem with on septic, but we were very happy to have water, and we don’t have a Homeowners’ Association. We do have a water system [association], and my husband’s the treasurer, and yes, we have a problem, once in a while, with people paying, but, generally, we take them to court, and that’s fine. But, overall, everyone pays, especially because water is crucial. Um, but, I find that, with septic, because it is, um, such a difficulty, sometimes better just to leave it to each homeowner, and you’ve got, I think, larger acreage than, than certainly we had, um, and, perhaps that would be helpful. Um, I know this is gonna be a big problem. It’s a, it’s a difficult area, and I am very sorry that the roads probably have to get widened. Um, the gentleman earlier talked about, um, underground utilities. When that came up at Council meeting, we were discussing both Skunk Hill and Brushy Brook at the same time. Skunk Hill did not mention underground utilities, but, Brushy Brook, when it was a solar project, did. Um, they had suggested that that might be something they’d be interested in, but that was the solar project, not the housing development. Um, I just wanted to clarify that, um, because it, it was discussed at the same time, so that might be a misconception. Thank you.”

Mr. DiOrio thanked Ms. Capalbo. He asked if there were any other members of the public who wanted to comment. When he did not hear from the public, he asked for a motion from the Board.

Ms. Shumchenia made a motion to continue the Public Hearing to October 6th at 6:00 p.m. It was seconded by Mr. Lindelow.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia

Abstain: None.

Opposed: None.

5-0, the motion passed.

NEW BUSINESS:

There was not any new business for the Board to discuss.

SOLICITOR’S REPORT:

Ms. Hogan explained that the Revity appeal had been “continued, uh, yet again, from a decision in September to October” due to a conflict with a participating party. She said that she believed that it had been continued to the 21st of October. She then stated that an appeal had been filed for the Stone Ridge at Hopkinton project, and she believed that it would also be heard on the 21st of October. She said that she had not “yet filed a memorandum in that case”, but she would “be doing so in the next week or two”. She

then spoke about “a decision from the Superior Court” that she had forwarded to the Board “in a very old case, which was filed in 2008, and seemingly abandoned by the parties for a very long period of time”. The decision of the Court was filed on August 20th, 2021, and “the Town’s decision, which granted, um, a Master Plan approval with conditions – which had then been appealed by the developer – this is a Comprehensive Permit – it had been appealed by the developer to SHAB, the State Housing Appeals Board, wherein SHAB [State Housing Appeals Board] reversed the, uh, decision as far as the conditions were concerned, and granted approval to the Clark Falls, um, application.” She continued.

Ms. Hogan: “Uh, then the Town took a further appeal of SHAB [State Housing Appeals Board]’s decision to the Superior Court, and the SHAB [State Housing Appeals Board]’s decision was upheld. So, now, the decision for the Town, uh, which is under discussion, as I understand it, with the Town Council, is whether or not, um, it would be appropriate for the Town to pursue any further appeals, um, at the Superior Court – pardon me – at the Supreme Court, um, on this application, or whether to let the Superior Court’s ruling go unchallenged. Uh, I don’t have a decision for you on that, but I’m sure the Town Council would be making that determination soon.”

Mr. DiOrio thanked Ms. Hogan, and said that he had a couple of questions. He asked if the Town Council would be making the decision to pursue or not pursue on Clarks Falls. Ms. Hogan replied in the affirmative. He then asked where the Stone Ridge at Hopkinton application was being appealed to. Ms. Hogan said that it was the Zoning Board of Review. He asked when that took place. Ms. Hogan said that it had been done about 10 days prior.

PLANNER’S REPORT:

The Planner did not have anything to report.

CORRESPONDENCE AND UPDATES:

1. Letter from Lorn Petruska – 8-6-21 – Solar

Mr. DiOrio explained that they had received a letter from a member of the public.

PUBLIC FORUM:

There were not any members of the public who wanted to speak during the Public Forum portion of the meeting.

DATE OF THE NEXT REGULAR MEETING: October 6, 2021

MINUTE APPROVAL EXTENSION REQUEST, PURSUANT TO RI GENERAL LAW 42-46-7(b)(1): August 4, 2021 Regular Meeting

Ms. Jalette appeared before the Board and explained that she was “requesting an extension to file the minutes” from the August 4th Planning Board meeting.

Ms. Jalette: “It will not impact anyone’s ability to view the minutes. It will not impact the ability – my ability – record the decisions made. I just need more time to put the minutes down for a three-hour plus meeting.”

Mr. DiOrio: “Understood. Thank you.”

ADJOURNMENT:

Mr. Prellwitz made a motion to adjourn the meeting. It was seconded by Ms. Shumchenia. There was not any further discussion.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia

Abstain: None.

Opposed: None.

5-0, the motion passed. The meeting was adjourned at approximately 8:59 p.m.

By: Talia Jalette, Senior Planning Clerk, 10/4/21