

## Minutes for Tuesday, April 21, 2020 Planning Board Meeting

*Note: this meeting was held by video-conference as allowed by State of Maine emergency measures put in place in March 2020 in response to the COVID-19 pandemic.*

**1. Call to Order:** The meeting was called to order at 7:00 PM.

**2. Introduction of Attendees - present were:**

- **Planning Board (PB) Members:** David Johnson (Chair), Laura Chadbourne (Secretary), Morris Gibley, Melanie Eldracher, and Alternate Member Bill Graham. Absent: Members Kevin Taylor and Alternate Member Ron Kiesman. In accordance with the PB By-laws, Bill Graham was designated by the PB Chair to serve as a voting PB Member.
- **Code Enforcement Officer (CEO)** Arthur Dunlap was in attendance.
- **Additional attendees:**
  - Re: Woodbury Hills Subdivision Amendment: John Bell of Maine Survey Consultants, Nathan Wadsworth of K&W Timberlands, Maie Wakefield of the Bean Group, Sean Ferguson (potential land purchaser)
  - Re: Walden Solar: Jack Kenworthy, Henry Weitzner, and Paul Williamson of Walden Renewables and Rich Jordan of Flycatcher LLC.

**3. Minutes from the February 24, 2020 Meeting:** The minutes were reviewed by the group. Morris Gibley moved to approve the meeting minutes as written. Melanie Eldracher seconded the motion. The motion passed unanimously.

**4. Board discussion about impacts from the COVID-19 pandemic:**

A. **Town Meeting:** the Sweden Town Meeting originally scheduled for March 28, 2020 has been postponed until further notice. Laura talked with the town's lawyer, Leah Rachin, earlier in the day (related to PB processes and site walks); Leah brought up the topic of town meetings and expected that the Governor's office would provide guidance on town meetings and elections within the next few days.

B. **Term Expirations:** David Johnson, Chair, and Bill Graham, Alternate Member, had board term expirations in March 2020; those positions would normally have been elected at the Town Meeting. Given that has been postponed, both Dave and Bill have committed to remaining in their positions to lead and support the board until a town meeting / election can be held.

C. **Temporary PB Procedures:** Board members reviewed a "Temporary Procedures" document with revised procedures for the PB during the pandemic in order to continue to conduct business. The procedures were drafted upon the advice of Maine Municipal Association Legal Services Department and the town's lawyer, Leah Rachin. The Temporary Procedures outline revised processes for PB meetings, public notices, public hearings, and site walks during the pandemic. Dave Johnson moved and Bill Graham seconded the approval of the Temporary Procedures. The motion passed unanimously. PB Secretary will contact the town Administrative Assistant (AA) to post the Temporary Procedures on the town's website.

**5. CEO's Reports for November 2019, December 2019, January 2020, February 2020, and March 2020**

Arthur presented the reports. A few questions were posed by the PB:

- **US Census report** – PB was looking for a copy, but with the town office closed, the CEO is not sure he can obtain a copy since the information is entered online. Secretary will follow up offline with CEO – could possibly take a screen print for the town's records.
- **Are physical inspections still happening during the pandemic? Is it safe?** CEO plans to maintain inspections as allowed. Outdoor inspections should not be an issue, would normally be alone and if anyone else there, can keep a safe distance of over 6 feet. Interior inspections will need to be handled on a case by case basis. CEO as a policy never visits a site unless a property owner/resident is home. Would need to ensure interior inspections could be done safely.
- **Acronyms** – board asked that CEO spell out acronyms in future reports, i.e., MBOIA, OCSWCD, SSWD, T.O.
- **Timber harvesting violation replanting on Rt. 93 Map R-05-Lot 52**- any news on when replanting will start? Arthur has been in conversations with remediation contact; they are working on plans with a nursery to obtain trees. Possible concerns on cost and type of trees, Arthur waiting to hear back from them.
- **CEO report format** – PB Chair asked who initiated the change to the format of the CEO report, Board of Selectmen (BOS) or CEO? Arthur stated he had been directed by the BOS to revise the report, that they did not want to see all the open permits each month. CEO added that other towns he has dealt with don't include the amount of detail in their report that Sweden does. Chair noted that he had already contacted the BOS in a letter with concerns both about the format change (which had been agreed to by BOS, PB, and CEO in the past) as well as the fact that the PB had not been consulted before the change was made.

Dave Johnson moved and Bill Graham seconded that acceptance of the CEO reports for November – December 2019 and January – March 2020. The motion passed unanimously.

**6. Communication & Bills**

**A. Correspondence Received and Sent (by date).** *NOTE: includes correspondence that had been included in the March 16, 2020 agenda since the March meeting was cancelled.*

1. Ltr (email) to PB dated 2-14-2020 from Jack Kenworthy of Walden Renewables, attaching proposed ideas and language for the board to consider regarding proposed revisions to Sweden's Zoning Ordinance (ZO) for solar developments as a use in Sweden. Secretary responded that it was too late to be considered for the February meeting, but she would place it on the agenda for March.
2. Ltr to the Town of Sweden (copy given to PB) dated 2-19-2020 from Woodard & Curran, attaching a public notice of intent to file for a potential solar project in Sweden on two adjacent lots: Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa.

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3. Ltr (email with attached signed letter) from PB dated 2-25-2020 to Sweden Board of Selectmen (BOS), amending language in the PB's 2020 funding request from \$10,000 to \$16,000, to include \$11,000 for administrative support and additional funds to cover legal fees and standard expenses at the Planning Board's discretion.
4. Ltr (email) from BOS to PB dated 2-25-2020 informing PB that BOS did not support the PB's amended funding request.
5. Ltr (emails) to and from PB dated 2-27-2020 and Rich Jordan of Flycatcher LLC, confirming that the next PB meeting would be on March 16<sup>th</sup>, not March 17<sup>th</sup> regarding proposed revisions to Sweden's Zoning Ordinance (ZO).
6. Ltr (email) from PB dated 2-29-2020 to Aimee Heath (Map U-01, Lot 2) regarding the Conditional Use Permit (CUP) application submitted to the PB for a dock. Email noted that the application could not be reviewed by the PB until the town had received an application fee in the amount of \$125.00. The email provided instructions on where to send a check. Ms. Heath replied on 3-1-2020 that the check was in the mail.
7. Ltr from PB dated 3-3-2020 to John Bell of Maine Survey Consultants, Inc. regarding the application to amend the Woodbury Hills Subdivision. Letter summarized the PB's review of the application materials and outlined several actions the applicant would need to take before further consideration of the application by the Board. Letter provided an extended deadline to March 11<sup>th</sup> for the Board to review at its meeting on March 16<sup>th</sup>.
8. Ltr from PB dated 3-6-2020 to Sweden Board of Selectmen (BOS), outlining several concerns related to previous commitments and lack of communication, including changes made to the CEO report format.
9. Ltr to PB dated 3-10-2020 from John Bell of Maine Survey Consultants, Inc. Package contained two items related to the Woodbury Hills Subdivision amendment application: 1. Authorization letter from subdivision owner for Maine Survey Consultants, Inc. and Nathan J. Wadsworth to represent the owner for the application; and 2. Letter from Ryan and Jamie McIver, confirming their agreement with the proposed changes to the footpath easement, along with an attached plan signed by each, showing the footpath in the new proposed location.
10. Ltr from CEO (PB cc'd) dated 3-10-2020 to Richard Jordan of Flycatcher LLC. Attached document contained CEO comments on the proposed revisions to Sweden's Zoning Ordinance language from Walden Solar.
11. Ltr (email) to and from PB dated 3-10-2020 through 4-8-2020 and Richard Jordan of Flycatcher LLC with updates on PB March meeting (ultimately cancelled) and April meeting. regarding revisions to Sweden's Zoning Ordinance
12. Ltr (email) from PB dated 3-16-2020 to Aimee Heath (Map U-01, Lot 2), alerting her that the 3/16 PB meeting had been cancelled due to COVID-19 concerns.

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13. Ltr (email) to PB dated 4-17-2020 from Darren Stairs of Woodard and Curran, alerting the PB that they planned to submit two Conditional Use Permit applications for solar projects in Sweden, at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa. and inquiring about the fee for the applications. A preliminary site plan drawing was attached to the email.
14. Ltr (emails) to and from PB dated 3-15-2020 through 4-17-2020 and John Bell of Maine Survey Consultants regarding proposed s Woodbury Hills Subdivision amendment. PB Secretary confirmed that PB had not voted to approve the application and strongly encouraged applicant to review the letter dated 3-3-2020 as the revised plans did not match the requirements outlined in the letter.
15. Ltr (email) to PB dated 4-16-2020 from the Administrative Assistant to the BOS , attaching a new policy entitled “Town of Sweden Email Policy”. PB Secretary inquired about archiving process. AA replied that archiving of emails typically happens with a town official leaves their position.
16. Ltr (email) from PB dated 4-19-2020 to Aimee Heath (Map U-01, Lot 2), alerting her that site walk processes will need to be changed and potential impact to timing of the CUP review.

### 7. New Business:

#### A. **Review of revised application materials for a proposed amendment to the Woodbury Hills Subdivision:**

- Secretary provided a verbal overview of the application materials received to date as well as a reminder of the two proposals in front of the board:
  - **Proposal #1:** Convey 10.02 acres of the remaining land (Lot #10) to abutting lot owned by Jason and Sheridan Nagel. According to the previously approved and recorded plan, the size of the abutting lot is 5.06 acres.
  - **Proposal #2:** Relocate a meandering footpath easement that provides Lot 9 with access to the Open Space on Lot 11, so that Lot 10 can be accessed/developed without concern about inadvertently interfering with the easement.
- While proposal #1 did not require formal approval by the Planning Board, the applicant was required to update the proposed subdivision plan to show natural buffers in conformance with the Town of Sweden Subdivision Regulations, Article X “General Standards”, Section 10.9 “Cluster Developments”, B.6. The plan was also required to be updated with a return of the “Approved Waivers” information which had been part of the last approved subdivision plan.
- Proposal #2 did require formal approval by the Planning Board. The Board had required a letter from the owners of Lot 9 (Ryan and Jamie McIver) showing their agreement to the change in location of the “meandering footpath” easement.

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- Secretary then placed the updated revised plan on the shared video screen for attendees to review.
- John Bell walked the group through the revised plan received on April 2, 2020 by the PB. The revised plan places the 100' natural buffers within the 10.02-acre portion of Lot 10 that is intended to be merged with the property at Map R-8, Lot 28A, owned by Jason and Sheridan Nagel (as a reminder, the Nagel property is not part of the subdivision). Mr. Bell explained that although the Planning Board had requested the buffers be placed outside of the proposed new lot, the lawyer for K&W Woodlands had advised them that the portion of proposed buffer zone newly impinging on Lot 9 (Map R-8, Lot 28-9, owned by Ryan and Jamie McIver) would not be legal since the McIvers could not be forced to accept additional buffer restrictions on an existing and developed subdivision lot.
- Mr. Bell explained that placing the buffers between the proposed 10.02 acre lot and the McIver lot appeared to be a solution that would still conform to the Sweden Subdivision Regulations.
- The board reviewed Town of Sweden Subdivision Regulations Article X "General Standards", Section 10.9 "Cluster Developments", B.6. which states:

"Natural buffer strips of at least 100 feet shall be permanently deeded and maintained between the clustered housing area and abutting properties, as well as along the public roadway frontage abutting, or contained within, the subdivision. Where practical, the buffer strip will be maintained in the same way as the open space that is designated in the covenants."

The board discussed the revised plan in light of the subdivision regulations and agreed that it appeared to meet the regulations for natural buffer requirements, given that the buffers would still be placed between the clustered housing area and the abutting properties.

- A board member asked if the Nagels (owners of Map R-8, Lot 28A) would still be interested in the newly enlarged lot with the buffers located on their property. The applicant stated that there was no issue; the Nagels were not concerned about the natural buffers since they intended to maintain vegetation on all parts of the larger lot once purchased.
- PB Secretary noted that other requirements outlined by the Planning Board at the February 24, 2020 meeting had been met, specifically:
  - On March 10, 2020, the board was provided with a signed letter from the subdivision owner, K&W Timberlands, from John Wadsworth, Member of K&W Timberlands, LLC, authorizing Maine Survey Consultants, Inc. and Nathan J. Wadsworth to act as agents for K&W Timberlands in the matter of the subdivision amendment proposal.
  - On March 10, 2020, the board was provided with a letter signed by Ryan and Jamie McIver, providing their assurance that they agreed with the change in placement of the proposed "meandering path" easement to run along the back of their property.

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- Full-size copies of the revised plan had been mailed to the town office (Secretary awaiting confirmation of their arrival – town office hours currently limited due to pandemic).
  - The “Approved Waivers” appearing on the last approved plan for the subdivision needed to be added back to the revised plan; they do appear in the latest version of the proposed revised plan (PDF copy of the plan is undated but was received on April 2, 2020; revision date will be referenced from the full-size plans)
  - **Based on the materials submitted and the Planning Board’s review, Board Member Morris Gibely made a motion to APPROVE the April 2, 2020 submitted subdivision amendment for the Woodbury Hills Subdivision. Bill Graham seconded the motion, which then passed unanimously.**
  - Secretary stated that a letter would be sent to the applicant confirming the decision within the next few days, ideally by Friday, but it would be best efforts given the extended hours the Secretary is required to work currently.
  - Board members discussed how to physically sign the paper copies of the now-approved plan so that it could be then taken to the Registry of Deeds (if indeed the Registry is open during the pandemic). Laura suggested individual PB Member visits to the town office at appointed days and times; she will coordinate with the town’s AA.
- B. Review of materials submitted by Walden Renewables regarding proposed revisions to Sweden's Zoning Ordinance and language for solar developments as a use in Sweden.
- Jack Kenworthy of Walden Renewables, LLC presented to the board.
  - He summarized discussions with the PB to date which had led to Walden’s submission on February 14, 2020 for the board’s consideration of proposed changes to the Sweden Zoning Ordinance.
  - The proposed change would create a solar overlay district, including performance standards for solar as a conditional use. Walden also provided a preliminary analysis of how the proposed changes would align to the Sweden’s Comprehensive Plan.
  - On March 10, 2020, Sweden’s CEO provided comments on the proposed ordinance language.
  - At the February meeting, there had been discussion about some potential paths forward: 1) wrap the solar overlay ordinance update within the larger body of work needed to bring the town’s Zoning Ordinance up to date; or 2) proceed with the solar portion of the ordinance update on a separate track from the other updates. Jack’s opinion was that the portion of the ordinance update for solar should not get in the way of other ordinance updates, but in the case it did, it could be updated again as ordinances are “living” documents.
  - Dave Johnson outlined the challenges that the Town of Sweden has dealt with and continues to deal with to get its Zoning Ordinance: lack of funds (in the town warrant but not yet approved) and lack of resources to lead the effort which is sizable and expected to take a year or possibly more.

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- Dave asked whether Walden had a specific timetable or deadlines the PB should be aware of. Walden noted that they are not tied to deadline-driven State initiatives but that they have costs already sunk into leases and have started the interconnectivity process and would normally start engineering and site design work now, if Sweden had an ordinance in place, with construction starting likely in late 2021. Without the ordinance updates, it will delay the process.
  - Laura Chadbourne suggested that the PB consult with the town's lawyer, Leah Rachin, to understand what risks the town would incur, if any, in proceeding just with the solar-related updates to the ordinance. Would Walden cover that cost?
  - Jack stated that Walden would cover the costs of resources and legal processes needed to move the project forward. He noted that he was familiar with Leah Rachin's name as she represents the town of Wells where Walden is pursuing a solar project right now.
  - **Laura Chadbourne made a motion that the board vote to engage the town's attorney on the process, considerations, and risks of proceeding with an ordinance amendment for solar development. Melanie Eldracher seconded the motion, which passed unanimously.**
  - Laura committed to following up with Leah Rachin on this topic. She also suggested that someone from the PB communicate to the BOS about this decision and possible future activity related to solar development in Sweden.
  - Dave will work with Bill Graham to provide an update to the BOS.
- C. Public notice and correspondence related to Woodard & Curran proposed solar project, at Map R-09, Lot 9, owner Charlotte Riley and Map R-09, Lot 17, owners Sharon and Francis Larosa. Laura Chadbourne raised this topic and stressed that this was not a formal review of any application, but rather a concern based on correspondence from Woodard & Curran (W&C) about their intentions to submit a Conditional Use Application (CUP) for solar development in Sweden. The applicant does not appear to understand that solar development is not currently an approved use in Sweden. Laura offered to reach out to the applicant before they went any further to ensure they understood that the use is not allowed currently. Board agreed; Laura will contact the applicant within the next few days.
- D. Review Conditional Use Permit (CUP) application materials from Jim Heath (Map U-01, Lot 2) for completeness of application. The application materials were reviewed in accordance with the Zoning Ordinance Section XIII. Conditional Use Section B. (Page 47). The purpose of the Board's review was to determine, if possible, whether the application materials submitted were complete enough for the Board to make a determination on whether a Conditional Use Permit could be granted.

The following questions were reviewed to determine completeness of the application:

### **Application for Conditional Use:**

#### **Details of the Review of a Conditional Use Permit Application Part I:**

Prior to declaring the application complete the Board is to review the application and must find that the applicant has met the following requirements of the Ordinance

**1. Has the property owner of record made the application?**

Yes. The Town Clerk confirmed in an email to the PB Secretary on January 21, 2020 that the current owners of the lot are James A. and Aimee E. Heath. The Board agrees that the applicant has legal standing to apply.

**2. Has the Conditional Use Application fee been received by the Board?** The PB had determined at their February 24, 2020 meeting that the fee for the CUP application would be \$125. This amount was received via check from the applicant as confirmed by the town's AA.

**3. Has the following information been received?**

**a. Plan of area showing contours, reference to Mean Sea Level, high water elevation, ground water conditions, bedrock slope or vegetative cover.**

The application includes basic information about the placement of the proposed dock to the shoreline and to other properties adjacent to the proposed dock area. The information was determined to be adequate for the purposes of this Conditional Use Permit.

**b. High intensity soil survey.**

A high intensity soil survey is not required for installation of a dock.

**c. Plan of area showing location of existing and proposed buildings, parking areas, traffic access, driveways, piers, open spaces and landscaping.**

A plan of the area showing the proposed dock as well as location and distances of closest property lines is included with the application. The Board agreed that the application information is adequate for the purposes of this Conditional Use Permit.

**d. Plans of buildings, sewage disposal facilities and water facilities.**

Buildings, sewage disposal facilities, and water facilities are not required for installation of this dock.

**e. Any other pertinent information necessary to determine if the proposed use meets the provisions of the ordinance.**

None needed at this time.

**Dave Johnson moved and Melanie Eldracher seconded that the CUP application be accepted as complete. The motion passed unanimously.**

The Planning Board agreed on May 19<sup>th</sup> as the date for the required Site Walk and Public Hearing including a formal review of the application. These activities will be conducted as per the Board's Temporary Processes put in place during the COVID-19 pandemic.

- Laura will work with the town's AA to ensure abutter letters are mailed and that the Public Hearing is advertised appropriately. She will also contact the applicant to obtain their agreement on the Temporary Procedures for site walks and public hearings.



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- Melanie Eldracher offered to video record the site walk to be played back at the public hearing. Laura will connect Melanie directly with the applicant to work out the details (site walk should occur on May 19<sup>th</sup> or very close to then).

E. Town Email Policy – Secretary placed the new email policy, sent to the PB members on 4/16/20 on the video screen for the group to review. The only question Laura had was what would trigger archiving of emails from an account? She had asked the town AA, who has responded that archiving typically would only occur when an official left their role. No other questions on the email policy.

### **8. Old Business:**

A. None.

### **8. Announcements:**

- A. The next regular Planning Board meeting is scheduled for Tuesday, May 19, 2020 at 7:00 PM at the Sweden Town Office or via video conference.
- B. The annual Sweden Town Meeting originally scheduled for Saturday, March 28, 2020 at 9 AM at the Town Meeting House has been postponed until further notice due to COVID-19 pandemic impacts.

A motion was made to adjourn the meeting. The Chair adjourned the meeting at 9:03 PM.

Respectfully submitted,

Laura Chadbourne,  
Secretary, Sweden Planning Board