

**Town of Acton, Maine**  
**Planning Board Meeting Minutes**  
**Date: April 6, 2023**

**Members Present:**

Chris Whitman (Chairman), Gavin Maloney (Vice Chairman), John Qua, Patricia Pearson, Ryan Gleason, Adam Brock (Alternate), Chelsea Kenyon (Alternate)

**Also Present:**

Jason Sevigny (Acton Code Enforcement Officer), Ben Smith (NorthStar Planning), Dave Riley (Land Use Assistant)

**Absent:**

N/A

**Pledge of Allegiance**

**Approval of Minutes:**

Gavin Maloney – Motion to approve the minutes from March 9<sup>th</sup>, 2023 as written.

John Qua – Second the Motion. Motion Passed 4 – 0. (Pat Pearson abstaining as she was not present for the March 9<sup>th</sup>, 2023 meeting.)

John Qua – Motion to approve the minutes from March 16, 2023 as written.

Patricia Pearson – Second the Motion. Motion Passed 4 – 0. (Gavin Maloney abstaining as he was not present for the March 16<sup>th</sup>, 2023 meeting.)

**Old Business:**

- **David Pepin: H Road, Map 220; Lot 007 & West Shore Drive, Map 221; Lot 003. Mineral Extraction.**

Matt Pepin returns before the Planning Board to continue his Mineral Extraction Application in order to get final approval. Matt began by giving a refresher on the open space easement he has had his legal representatives draft for presentation to the Town of Acton. He described how it would be presented to the town for acceptance and if it was not excepted than Matt stated he would put the section of property in question into a Conservation Easement himself. Ben Smith from NorthStar Planning addressed the Planning Board following Matt and went through a review of the previous meeting. He detailed the discussions of the previous meeting around the finalizing of details in relation to the Findings of Fact and Conditions of Approval. Ben also stated that after reviewing all the documentation that the Planning Board should have the information required to proceed with a final determination of approval if they chose to do so. The Planning Board continued discussions with Matt and with the help of Ben Smith around the land to be donated to either the Town of Acton or placed in a Conservation Easement by Mr. Pepin. Ben Smith reiterated that the tract of land in question is documented as a Finding of Fact that it will be either donated or placed in conservation. With that detail in mind the Planning Board was satisfied with moving on from discussion around the land to be donated as a condition of approval, because the applicant's intentions are recorded in the Findings of Fact.

Moving on from the discussions around the donation of a portion of the property, Pat Pearson began discussion around Condition #2 around open acreage of the project. Matt Pepin proceeded to give details around why the open acreage allowed should remain at 35 acres as opposed to being reduced to 25 acres. After discussion it was determined that the amount of open acreage that Mr. Pepin has in his plans was 35 acres for extraction and 15 acres for processing and wash plant area, for a total of 50 acres.

Pat Pearson – Motion to change the amount of open acreage from 35 acres to 25 acres.

Gavin Maloney – Second the Motion.

Ryan Gleason – Abstaining from the vote on the Pepin Mineral Extraction Application.

Chris Whitman – Designates Adam Brock as a voting alternate for the Pepin Mineral Extraction Application.

Chris Whitman – All in favor of 25 acres as opposed to 35 acres. 2 in Favor. All opposed to 25 acres instead of 35 acres. 3 opposed.

Motion Failed – 3 – 2.

John Qua – Motion to approve with conditions the Application for Mineral Extraction – David Pepin: H Road Map 220; Lot 007 & West Shore Drive Map 221; Lot 003 with the Findings of Fact and Conclusions in the Planning Memo dated April 6<sup>th</sup>, 2023 and the Conditions as listed in the Planning Memo dated April 6<sup>th</sup>, 2023.

Adam Brock – Second the Motion. Motion Passed 5 – 0.

### **New Business:**

- **Jason Roy: 63 Stone Wall Drive, Map 127; Lot 004. Application for Greatest Practical Extent.**

Jason Roy began discussions with the Planning Board detailing his proposal to demolish his existing home on Stone Wall Drive and build a new dwelling. Mr. Roy stated that the house is currently about 35 feet from Square Pond and he is looking to move the home back about 5 feet and rebuild. He is hoping to only move back the five feet in order to reutilize the existing underground utilities. Mr. Roy also stated that the current foundation is not salvageable because of water damage over the course of its history. Following the information provided by Mr. Roy, the Planning Board discussed some concerns with the information that had been calculated for the 30 percent expansion form and that it was possibly incorrect. The Planning Board, Mr. Roy and the Code Enforcement Officer discussed the calculations in order to try and find the discrepancy.

The Planning Board continued review of the application and discussed the reasons for not being able to move the house back more than 5 feet. Mr. Roy explained how he would

have to have all new utilities installed if he moved the new proposed house location back more than 5 feet. Those utilities included water lines, under-ground power, septic tanks, pump station and leach field, as well as a new paved driveway access established.

The Planning Board also discussed the potential that the applicant had possibly already removed 50% of the fair market value of the existing garage being used in the 30% calculation. The board continued discussions around this detail with the Code Enforcement Officer and determined that there needed to be more information provided in the future for the Planning Board to review. The Planning Board also determined a site walk would be beneficial for this application.

John Qua – Motion to schedule a site walk for the Application for Greatest Practical Extent for Jason Roy at 63 Stone Wall Drive.

Ryan Gleason – Second the Motion. Motion Passed 5 – 0.

Site Walk Scheduled for April 20<sup>th</sup>, 2023 at 5:00pm.

- **Andrew Donovan: 257 Route 109, Map 243; Lot 005. Application for Conditional Use for a Ground Mounted Solar Array.**

Nichole Johnson, a representative from Maine Solar Solutions, introduced herself to the Planning Board on behalf of the Donovans and their project. Ms. Johnson detailed to the Planning Board that the solar array proposed would be 32 large format steel fab. Panels and the dimensions are 48 feet 4 inches x 17 feet. She continued by stating the array would generate around 20,000 kilowatts per year and would only be utilized by the resident and the buildings on their property. The Planning Board asked about visibility from the road and it was the consensus after looking at the site plans that there would be very limited visibility of the array from the road. Ms. Johnson also stated that the solar array would be fixed at a 35-degree angle oriented due South and would stand 10 feet 8 inches tall.

Gavin Maloney – Motion to schedule a site walk for Andrew Donovan, 257 Route 109, Conditional Use for a Ground Mounted Solar Array on April 13<sup>th</sup>, 2023 at 5:00pm.

John Qua – Second the Motion. Motion Passed 5 – 0.

The Planning Board continued their meeting with round table discussions about potential Zoning Ordinance changes to be brought before a public hearing on April 13<sup>th</sup>, 2023. The discussions were in relation to the Warrant Articles drafted in previous meetings and had since been through a review with the Warrant and Finance Committee. The Code Enforcement Officer stated that there were proposed changes and suggestions that were presented by the Warrant and Finance Committee to the Planning Board.

The Planning Board and Code Enforcement Officer welcomed Charles Hydek of the Warrant and Finance Committee to address some of the suggestions that were presented. The first suggested revisions were to the Warrant Article in relation to Solar Energy Systems. One suggestion was to change Solar Farm Medium to Solar Farm Small. The Planning Board and Charlie then reviewed the reasoning behind the change. Another proposed change to the Solar Energy System Warrant Article was the addition of “lowest grade attachment point” to the language around where measurement of height would begin when considering ground mounted solar arrays. The final proposed changes were in relation to who would determine the estimated cost of removal of a solar energy system, the size of the perimeter around the solar energy system where an applicant would have to provide documentation of historic, prehistoric or archaeological resources. The Planning Board completed their review of the proposed changes to the Solar Energy Systems Warrant Article and moved to Mineral Extractive Industry.

Gavin Maloney – Motion to accept the proposed changes to the Amendment to the Zoning Ordinance relative to Solar Energy Systems as written in the yellow document.

John Qua – Second the Motion. Motion Passed 5 – 0.

The Planning Board when moving onto Mineral Extractive industry made a note that at the top of each Warrant Article there was a change to the details of the titles to add “for Warrant Clarity”. This change noted by the Planning Board was to help better understand the information provided in the titles.

Gavin – Motion to add the verbiage “for Warrant clarity” to the Amendments to the Zoning Ordinance relative to Conditional Use Permits.

John Qua – Second the Motion. Motion Passed 5 – 0.

The Planning Board continued the meeting with review of the proposed changes to the Zoning Ordinance relative to Mineral Extractive Industry. The first proposed change appeared on page 3, number 4 and revolved around where topsoil and loam would be retained. It was determined that the word “onsite” would be added. Also on page number 3 was the addition of wording under number 8 sub-section c, to illustrate how a final graded slope would be measured. The Planning Board continued on page four of the proposed changes to the ordinance relative to Mineral Extractive Industry. On page four there was wording added to number 11 detailing that an applicant would have seven days after measurement of the monitoring wells by a licensed surveyor to submit documentation stating the distance between the excavation and the water table. Another proposed change on page four was in paragraph e, number 3 and it was relative to what permits were included in this section. It was proposed that the word “all” needed to be added to clarify what permits were in question. This section also had a change in the expiration date from 2 years to 3 years if an applicant doesn’t meet the conditions set in paragraph e, section 3. The Planning Board and Warrant and Finance Committee member Charles Hydek held round table discussions around the change from two years to three years and it was determined that the three-year time frame was more appropriate and avoided further confusion.

The remainder of the Planning Board meeting consisted of round table discussions about what documents were required to be submitted by an applicant for Mineral Extraction and how many open acres of excavation would be allowed. The Planning Board and Code Enforcement Officer with help from Mr. Hydek of the Warrant and Finance Committee drafted language to help clarify what information is to be provided to the town. After discussion, the Planning Board determined it was necessary to add a sub-section e to section 3 of the Permit Approval paragraph of the proposed Zoning Ordinance change to Mineral Extractive Industry in order to address the needed clarity. The Planning Board finalized its discussions around the amount of open acreage that would be allowed in mineral extraction operations. The Planning Board determined it was necessary to add a sub-section 14 to the Performance Standards on page 4 and detailed that the maximum open unvegetated area would be 35 acres.

John Qua – Motion to approve the changes to the Mineral Extraction Industry to include the new changes that we added, paragraph 3 on page four and number 14 on page which would address capping open acreage at 35 acres.

Gavin Maloney – Second the Motion. Motion Passed 5 – 0.

**Pending Projects:**

- **Sasha Smith: 660 Hopper Road. Map 235; Lot 036. Application for Conditional Use for In Home Day Care.**
- **Elias Thomas: 318 Route 109. Map 147; Lot 010. Application for Conditional Use for Commercial Office Space.**

John Qua – Motion to Adjourn.

Patricia Pearson – Second the Motion. Motion Passed 5 – 0.