

**Town of Acton, Maine**  
**Planning Board Meeting Minutes**

**Date: November 16, 2023**

**Members Present:**

Christopher Whitman (Chairman), Gavin Maloney (Vice-Chairman), John Qua, Patricia Pearson, Adam Brock (Alternate), Andrew Johnson (Alternate).

**Also Present:**

Jason Sevigny (Code Enforcement Officer), David Riley (Land Use Assistant), Joe Griffin (Civil Works New England), Jenna Gilbert (Sevee & Maher Engineers), Tyler Matthews (Lake Living Consultants)

**Absent:**

Ryan Gleason

**Pledge of Allegiance**

**Designate Alternates:**

**Approval of Minutes:**

***No Minutes to Approve***

**Signing of Approved Site Plans:**

- **John O'Keefe: 193 Foxes Ridge Road. Map 248; Lot 009. 6.6.4 Site Plan Review**

Joe Griffin from Civil Works New England has come to the Planning Board with an updated Site Plan for the John O'Keefe / Hurd Storage project that was approved with conditions at the November 2, 2023 Planning Board meeting. Joe informed the board that he had included the conditions that were set and the waivers on the cover sheet as well as the site plan sheet. Joe also mentioned that he has brought three

copies of the site plan for signature. One set for recording at the York County Registry of Deeds, one copy for the Town of Acton and one for the property owner. Along with the site plan packets, Joe has provided two copies of the lease agreement, and he noted that under section 9 of that agreement, it states that there will be no overnight storage of vehicles on site. The Planning Board reviewed the documents and found that all the necessary changes and conditions had been made and noted on the site plans. Planning Board Chairman Christopher Whitman and members John Qua, and Gavin Maloney signed the approved documents. Member Patricia Pearson has abstained from voting on this project, and alternate members Adam Brock and Andrew Johnson were not designated as voting members on the project in the previous meetings.

### **Old Business:**

- **Arthur Kelly: 82 Sanborn Road. Map 234; Lot 044. Application for Site Plan Review for Acton Solar LLC.**

Jenna Gilbert from Sevee and Maher Engineers has returned to the Planning Board to continue an application on behalf of Arthur Kelly. Jenna began by discussing that the site walk conducted the week prior had gone well. She also mentioned the changes that can be observed to the updated site plan. The updated plans show the reduction in cleared area, and the additional landscape buffering with the species being changed to Holly and Rhododendron. The tree clearing on site has been reduced to 6.9 acres from 9.4 and the fence around the site has been shown with the added wildlife gap of 7 inches.

Board member John Qua asked if Jenna could review with the Board how the decommissioning costs for the solar field are determined. Jenna stated that she doesn't have a better breakdown of the costs besides what is in the packet, but she would be happy to try and get more information for the board. The information that she does have is that the cost is a set dollar amount per 1 megawatt project. Gavin Maloney asked what happens to the panels after they are decommissioned. Jenna explained that the decommissioned panels would be dismantled and brought to a recycling facility, and the remaining parts would be disposed of in a landfill. She also explained that there are no hazardous materials contained in the solar arrays.

Returning to the discussion around decommissioning costs, John Qua restates that it

would be helpful to see what the breakdown of costs are for decommissioning and how the numbers are determined. Jenna agreed and let the Board know she would try to reach out to the leaser, Jeremy Chapman, and have him provide a better breakdown of the decommissioning costs.

Moving on with the review, Gavin Maloney asked if NorthStar Planning had deemed this project to also fall under Conditional Use. CEO Jason Sevigny informed the Board that because the project is 50 feet into the Village District, it would be both Site Plan Review and Conditional Use. The Planning Board determined that the finding of fact could be reviewed in relation to the Conditional Use portion of the project and a Public Hearing could be scheduled. John Qua read the standards aloud of section 6.6.3.7, a sub-section of 6.6.3.4 Review Procedure and Public Hearing, as follows:

- The Standards listed in Section 6.6.3.7 have been reviewed and found that:
  - a. The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat; ..... Yes  No  N/A
  - b. The use will conserve shore cover and visual, as well as actual, access to water bodies; ..... Yes  No  N/A
  - c. The use is consistent with the Comprehensive Plan; ..... Yes  No  N/A
  - d. Traffic access to the site meets the standards contained in this Ordinance; and traffic congestion has been addressed in accordance with performance standards in this Ordinance; ..... Yes  No  N/A
  - e. The site design is in conformance with all municipal flood hazard protection regulations; ..... Yes  No  N/A
  - f. Adequate provision for the disposal of all wastewater and solid waste has been made; ..... Yes  No  N/A
  - g. Adequate provision for the transportation, storage, and disposal of any hazardous materials has been made; ..... Yes  No  N/A
  - h. A storm water drainage system capable of handling a twenty-five (25) year storm without adverse impact on adjacent properties, has been designed; ..... Yes  No  N/A
  - i. Adequate provisions to control soil erosion and sedimentation have been made; ..... Yes  No  N/A
  - j. There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes; ..... Yes  No  N/A

- k. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odor, and the like; ..... ✓ Yes  No  N/A
- l. All performance standards in this Ordinance applicable to the proposed use will be met; ..... ✓ Yes  No  N/A
- m. Archeological and historic resources, as designated in the Comprehensive Plan, will be protected; ..... ✓ Yes  No  N/A

The Planning Board continued by noting the public hearing for this project would address both the Site Plan Review as well as the Conditional Use. John Qua mentioned to Jenna Gilbert that at the beginning of the public hearing, she should make it clear during her description of the project that the public hearing is also addressing Conditional Use. Jenna explained that she would address that point. The Board then moved to the Findings of Fact relative to this project as part of the Site Plan Review checklist. John Qua read aloud as follows:

**6.6.4.1 Applicability of Site Plan Review - Proposed Use:**

- ✓ Construction / placement new building, structure, accessory buildings.
- N/A Expansion of an existing building / structure, accessory buildings, increasing total floor area.
- N/A Conversion of existing building, or portion, from residential to nonresidential use.
- ✓ Establishment of new use, nonstructural, nonresidential uses.
- ✓ Conversion of existing use or portion, to another use, if changing the basic nature of the existing use, increasing intensity of impacts of the use,
- N/A Construction of a residential building - three (3) or more dwelling units.
- N/A Modification or expansion of existing residential structure by three (3) or more in any five (5) year period.
- N/A Conversion of an existing nonresidential building or structure, or portion three (3) or more dwelling units within a five (5) year period.
- N/A Construction / expansion of paved areas or other impervious surfaces involving an area of more than two thousand five hundred (2,500) square feet within any three (3) year period.

**6.6.4.5 Review Procedures:**

**6.6.4.5.1 Preapplication:** preapplication conference:

- ✓ A site inspection has been scheduled if necessary;
- ✓ Potential waivers and variations from the submission requirements have been discussed.

**6.6.4.5.3 The following information has been submitted:**

- ✓ Proposed site, location, size, and general characteristics;
- ✓ Nature of proposed use and potential development;

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- ✓ Existing municipal regulations and applicability to the project;
- ✓ Requests for waivers from the submission requirements.

**6.6.4.5.4 The application has been reviewed and:**

- ✓ Receipt sent to the applicant;
- ✓ Notification sent to abutters within 500 feet by first class mail;
- ✓ Notice sent to the Selectmen, Fire Chief, Road Commissioner, and Code Enforcement Officer;
- ✓ Reviewed application for completion within thirty (30) days of receipt;
  - Incomplete - notification to applicant specifying additional materials required;
  - ✓ Complete - notification to applicant date, time and place of the agenda within thirty (30) days;
- ✓ On-site inspection of the site has been done if necessary;
- ✓ Independent consultants / attorneys have been engaged to ensure Ordinance compliance if necessary;
- Denial, approval or approval with conditions has been made within ninety (90) days of completed application;

Conditions: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- Notify the applicant- findings of fact / conditions of approval.

**6.6.4.5.5 Final Approval and Filing:**

- Approve by majority of Board members;
- A majority of Board Members signed the Plan;
- Code Enforcement Officer notified;
- Plan has been recorded in the York County Registry of Deeds within thirty (30).

Fees:

- ✓ Application Fee has been received;
- ✓ Technical Review Fee has been received if required.

**6.6.4.6 Submissions Requirements:** the application contains the following information:

- ✓ Completed / signed copy of the application;
- ✓ Evidence of payment of the application and technical review fees;
- ✓ Eight (8) copies of written materials including - bound report;
- ✓ Eight (8) copies of maps or drawings not to exceed one hundred (100) feet to the inch.

**6.6.4.6.1 General information provided:**

- ✓ Owner's name, address, and telephone number; and;
- ✓ Applicant's name, address, and telephone number if different from property owner, a Letter of Authorization has been included if required;

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- ✓ Location of all required building setbacks, yards, and buffer;
- ✓ List of abutters within five hundred (500) feet;
- ✓ Sketch map showing general location of the site;
- ✓ Boundaries of all contiguous property;
- ✓ Tax map and lot number;
- ✓ Deed to the property, an option to purchase the property;
- ✓ The name, registration number, and seal of the Maine surveyor who prepared the plan;
- ✓ Evidence of the applicant's technical and financial capability to carry out the proposed project.

**6.6.4.7 Approval Standards and Criteria** – the following minimum requirements have been reviewed by the Planning Board:

**6.6.4.7.1 Utilization of Site**

- ✓ The natural capabilities of the site to support development are noted on the plan and appropriate measures for protecting these resources are included;
- ✓ Environmentally sensitive areas:
 

<ul style="list-style-type: none"> <li>✓ Wetlands</li> <li>✓ steep slopes</li> <li>✓ floodplains</li> <li>✓ significant wildlife habitats</li> <li>✓ fisheries</li> </ul>	<ul style="list-style-type: none"> <li>✓ scenic areas</li> <li>✓ habitat for rare and endangered plants and animals</li> <li>✓ unique natural communities and natural areas</li> <li>✓ sand and gravel aquifers</li> <li>✓ Natural drainage areas</li> </ul>
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- ✓ Buildings, lots, and support facilities are clustered in those portions of the site that have the most suitable conditions for development;

**6.6.4.7.2 Adequacy of Road System** –

- ✓ Adequate capacity to accommodate additional traffic generated is provided - may be waived
- A development not meeting this requirement may be approved if the applicant demonstrates that:
  - A public agency has committed funds
  - The applicant will assume financial responsibility

**6.6.4.7.3 Access into the Site**

- ✓ Vehicular access to and from is safe and convenient;
- ✓ Driveway / proposed street is designed to the current Town of Acton Subdivision Standards;
- ✓ Points of access / egress avoid hazardous avoid conflicts with existing turning movements and traffic flows;
- ✓ Proposed drive / street grades are not more than  $\pm 3\%$  for a minimum of two (2) car lengths, or forty feet (40') from the intersection;
- ✓ Intersection of access/egress drive or proposed street functions:
  - (A) At a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or
  - (B) At a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- ✓ Streets with less potential for traffic congestion and for traffic and pedestrian hazards is used when the

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- lot has frontage on two or more streets;
- ✓ Turning lanes, traffic directional islands, and traffic controls are provided when necessary;
- ✓ Access ways are designed and have sufficient capacity to avoid queuing;
- ✓ The driveways meet the criteria:
- ✓ Use which generates less than one hundred (100) vehicle trips per day has more than one (1) two-way driveway onto a single roadway no greater than thirty (30) feet wide;
- ✓ Use which generates one hundred (100) or more vehicle trips per day has more than two (2) points of entry from, and two (2) points of egress to, a single roadway with a combined width of all access ways not exceeding sixty (60) feet;
- ✓ Sight distances on town ways conform with the current edition of the Town of Acton Subdivision Standards.

**6.6.4.7.4 Access way Location and Spacing –**

- ✓ Private entrances/exits are located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty feet (150') from the closest signalized intersection;
- ✓ Private access ways in or out of a development are separated by a minimum of seventy-five feet (75') where possible.

**6.6.4.7.5 Internal Vehicular Circulation**

- ✓ The layout of the site provides for the safe movement of passenger, service, and emergency vehicles;
- ✓ Nonresidential projects provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for a minimum of WB-40 vehicles;
- ✓ Clear routes of access are provided and maintained for emergency vehicles, and are posted with appropriate signage “fire lane” – “no parking”;
- ✓ Parking layout and design provide for safe and convenient circulation of vehicles;
- ✓ Roadways are designed to:
  - ✓ harmonize with the topographic and natural features,
  - ✓ minimize filling, grading, excavation, or other similar activities
- ✓ The road network provides for:
 

<ul style="list-style-type: none"> <li>✓ vehicular, pedestrian, cyclist safety,</li> <li>✓ all season emergency access,</li> </ul>		<ul style="list-style-type: none"> <li>✓ snow storage,</li> <li>✓ delivery and collection services.</li> </ul>
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**6.6.4.7.6 Parking Layout and Design:** Off-street parking conform to the following standards: **N/A**

**6.6.4.7.7 Pedestrian Circulation – N/A No Pedestrian Traffic (Site will be locked)**

**6.6.4.7.8 Stormwater Management**

- ✓ Adequate provisions are made for the collection / disposal of stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan;
- ✓ The plan retains stormwater on the site using the natural features of the sit;.
- ✓ Systems detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate;
- ✓ On- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects to flooding and erosion of shoreland areas;

- ✓ Natural drainage ways are preserved at their natural gradients, and are not to be filled or converted to a closed system unless approved as part of the site plan review;
- ✓ The stormwater drainage system provides for the disposal of stormwater without damage;
- ✓ Storm drainage systems are fully cognizant of upstream runoff which passes over / through the site, and provides for this movement.
- ✓ The biological and chemical properties of the receiving waters are not degraded by the stormwater runoff from the development site.

#### **6.6.4.7.9 Erosion Control**

- ✓ Designs and layouts harmonize with existing topography conserving desirable natural surroundings; filling, excavation, and earth moving activity are kept to a minimum. Parking lots on sloped sites are terraced to avoid undue cut and fill, and/or the need for retaining walls;
- ✓ Natural vegetation is preserved and protected;
- ✓ Soil erosion and sedimentation of watercourses and water bodies are minimized by an active program.

#### **6.6.4.7.10 Water Supply**

N/A - A system of water supply that provides each use with adequate water for domestic use and fire protection is planned.

#### **6.6.4.7.11 Sewage Disposal: N/A**

#### **6.6.4.7.12 Utilities:**

- ✓ the plan provides for adequate utilities to service anticipated use -
- ✓ screened from view to the extent feasible –
- ✓ underground if street and adjoining lots have underground.

#### **6.6.4.7.13 Natural Features –**

- ✓ The landscape is preserved in its natural state insofar as practical - extensive grading and filling is avoided

#### **6.6.4.7.14 Groundwater Protection –**

- ✓ The project does not adversely impact either the quality or quantity of groundwater available to abutting properties - demonstrates groundwater compliance with State standards

#### **6.6.4.7.15 Water Quality Protection –** The project is designed so that:

- ✓ No discharge of any substance contaminates surface or groundwater or is harmful to human, animal, plant, or aquatic life.
- ✓ All storage facilities for fuel, chemicals, chemical, or industrial wastes, and biodegradable raw materials, meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
- ✓ The project complies with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous



**6.6.4.7.16 Hazardous, Special and Radioactive Materials** – Jenna Gilbert is to provide information on the materials located within the arrays for the next meeting.

- handling / storage / use complies with standards of all agencies.
- No storage is planned unless:
  - Storage located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage.
  - Storage complies with rules and regulations of appropriate federal, state, and local regulations.

**6.6.4.7.17 Shoreland Relationship:**

N/A The development does not adversely affect the water quality

**6.6.4.7.18 Technical and Financial Capacity:**

- ✓ The applicant demonstrates financial and technical capability in accordance with the Zoning Ordinance and plan.

**6.6.4.7.19 Solid Waste Disposal:**

N/A The proposed development provides for adequate disposal of solid wastes.

N/A All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

**6.6.4.7.20 Historic and Archaeological Resources:**

- ✓ Appropriate measures for protecting any identified historic or archaeological resources are included.

**6.6.4.7.21 Floodplain Management:**

N/A Development within flood hazard is consistent with the Town's Floodplain management provisions.

**6.6.4.7.22 Fire Protection: A lock will be provided for a knox box to the gate for the site per Jenna Gilbert.**

Fire protection standards are met at a minimum with either one of the following:

N/A NFPA-13 Installation of Sprinklers (including the most current revisions) or

N/A NFPA-1142 Standards on Water Supplies for Suburban and Rural Fire Fighting

Following the review of the standards, the Planning Board set a date for the Public Hearing portion of this application. The Public Hearing will be on December 7<sup>th</sup>, 2023 at 6:00pm.

***Gavin Maloney – “I’ll make a Motion we hold a Public Hearing for Kelly Orchards, 82 Sanborn Road, Site Plan Review for Acton Solar on December 7<sup>th</sup> at 6:00pm.”***

***John Qua – “Second” Motion Passed 4 – 0.***

- **Mike Albertson: 1152 West Shore Drive. Map 123; Lot 018. Application for Greatest Practical Extent.**

Tyler Matthews is present on behalf of Mike Albertson for an Application for Greatest Practical Extent. Mr. Matthews states that he is looking to tear down the existing structure and rebuild a new structure. He informed the Planning Board that there are power lines on the property and the existing structure is currently 25 feet away from them. Mr. Matthews is looking to move the new structure backwards to 15 feet from the power lines. Tyler explained this would also move the structure from 37 feet from Square Pond to 47 feet from the high-water mark of Square Pond. Gavin Maloney asked what the variance with the septic design was in relation to. The CEO explained it was for the setback from the well, the lake, and the property line. Tyler Matthews stated it is a new septic that is being installed. John Qua asked what the new lot coverage calculations would be. Tyler stated that the new lot coverage would be under 20 percent. Mr. Maloney asked if the driveway would remain the same, and Mr. Matthews stated that approximately 2/3 of the pavement is going to be removed.

CEO Jason Sevigny asked if any trees would be removed during this project. Tyler shook his head no, that no trees would be removed. The Planning Board had no further questions on this application.

***Gavin Maloney – “I’ll make a Motion we approve the best possible location for Mike Albertson, 1152 West Shore Drive. Map 123; Lot 018. The new structure to be located no closer than 47 feet from the high-water mark and the lot coverage to not be increased from 16.8%.”***

***Patricia Pearson – “Second.” Motion Passed 4 – 0.***

- **Denise Pepin: 103 Thrush Road. Map 127; Lot 002-001. Application for Greatest Practical Extent.**

Tyler Matthews remained at the podium to represent the next applicant as well. Tyler explained to the Planning Board that this is a very similar proposal where the applicant is looking to have their existing structure torn down and a new structure built. He continued to state that the existing structure is 54.6 feet from the high-water mark of Square Pond, and he is looking to place the new structure in the same location. Board Member Gavin Maloney asked if everything would be new, including the foundation and septic. Tyler confirmed that everything would be new. He also stated that the lot is very tight making it hard to move much of anything.

Gavin Maloney asked if there was any way to reduce the lot coverage on the site. Gavin stated that he understands that the footprint of the house will remain the same but wants to know if there was a way to shrink any of the impervious surface on the property. Tyler said he would like to reduce the lot coverage for the Board, but the lot is so small that there is not much he can do to reduce it any. Gavin stated that he would like to find a way to reduce the lot coverage. Gavin asked Tyler if there was anything that could be done about the set of concrete steps or the shed on the property. Tyler mentioned he could possibly install pervious steps if he needed to. Gavin inquired as to what the driveway was constructed of. Tyler informed him it's made of crushed gravel. Tyler said he could try to go from 32% lot coverage to 30%. Decreasing the lot coverage 2% recovers 102 square feet of impervious surface. Board Member Adam Brock stated he felt the 2% recovery was good. CEO Jason Sevigny asked if trees were going to be taken down and Tyler stated he is hoping to take none. John Qua said he is good with getting the 2% recovery. Gavin Maloney stated that it seems like most of the Board is good with the 2% reduction in lot coverage.

***Gavin Maloney – “I’ll make a Motion we accept the Application for Greatest Practical Extent for Denise Pepin, 103 Thrush Road, Map 127 Lot 002-001. The structure be relocated no closer than 54.5 feet from the high-water mark of Square Pond and that the impervious surface of the new site be no more than 30 percent.”***

***John Qua – “I’ll Second.” Motion Passed 4 – 0.***

**Round Table Discussions:**

CEO Jason Sevigny informed the Planning Board that the Select Board is contemplating moving the date for Town Meeting to earlier in the year. He continued to communicate to the Board that the Selectmen are looking to determine how many articles the Planning Board is looking to put forward for review, and how much time the Planning Board needs to get the drafts of the articles completed. The remainder of the meeting consisted of round table discussions around potential articles to be submitted in the future for review.

**Pending Projects:**

**None**

*John Qua – “I move we adjourn.”*

*Patricia Pearson – “I Second.” Motion Passed 4 – 0.*