

**Planning Board**  
**Town of Wales, MA**  
**6/10/19 6:30 PM**

**Present:** Lynn Greene (**LG**), Jason Oney (**JO**), Diane Piazza (**DP**), Laurie Hornacek (**LH**), Danelle LaFlower (**DL**), Sarah Ryan (**SR**)

**Guests:** Laura Foster, Ray LaBonte, Doug Dickinson, Gary Brown, Val Bernier-Town Accountant

JO opened the meeting at 6:33 PM.

LH nominates LG for the PB Chair along with DL and DP.

LG asks the board members if anyone would like to volunteer for co-chair. DL asks JO if he would be willing to be co-chair, which he accepted.

LG moves a motion that all are in favor- all in favor.

Laura Foster states that she would like to speak in regards to questions that she had about 4/22/19 & 5/13/19 minutes.

The board reviews and accepts 5/13/19 minutes with edits made.

**Agenda Item:**

**LG** invites Ray LaBonte to speak on his proposed plans for a storage facility located at Lot 1, Main St, which is a sand lot right on the town line that is owned by Mr. LaBonte.

Ray LaBonte explains that the property was split into 2 parts. A house was built on the Brimfield side and his lot is on the west side, sharing a property line with the town line. Mr. LaBonte submits a letter explaining what his intentions are, attached is a general picture of what the units will look like. Mr. LaBonte submits simple plot plans. As the board reviews these plans Mr. LaBonte explains that the building would be 100ft long, theoretically 10x10 units, and 20 units per building. The fourth building may contain smaller units. Mr. LaBonte explains that he would start with 2 buildings but possibly build up to 4 depending on the need. Mr. LaBonte had an engineer perform a survey of the land elevations.

**LH** asked about the details of fencing and lighting that would be used. Mr. LaBonte explained that the fencing and lighting was mentioned in his letter that he submitted but that these plans in front of the board are preliminary plans. Mr. LaBonte explains that the lighting would be on the eaves of the building pointed down. Signage would be in accordance with town zoning by-laws and that he would have a chain link fence 5 ft. high around the building.

**LG** explains that an application would need to be submitted to the town clerk with the fee, abutters would need to be notified and then a public hearing would take place.

### Agenda Item

The executive secretary for the town selectman has asked that all departments select a member to be on the Capital Improvement Planning Committee board. **DL** and the board suggested getting specifics as far as how often meetings are and what the expectations of the members would be. **SR** will contact Pam for specifics and email the members.

**Laura Foster** has questions in regards to the minutes on 4-22-19. Laura clarifies that James Whalen's response to **Laura Foster's** statement about seeing arrays from her property was "I thought so too". **Laura** asked if the recording of the meetings would be televised at home. *Response:* **LG** states that she would need to speak with Leon regarding the meetings being televised, while pointing out that we are recording these meetings so the minutes are an accurate reflection of the meeting.

**Laura Foster** questioned the site meeting on 5-13-19. Ms. Foster states that she did file a complaint with DEP and she has received no response. Laura Foster asks that since the building inspector issued a building permit for the berm, would he have a say in this matter. Laura clarifies that she believes Daisy Welch was the Planning Board chair at that time and the Planning Board mandated this berm to be put in 30 years ago. Laura feels that this is a preexisting issue of a berm that was built at the direction of the Planning Board.

**LG** states that she was unsure on where those records would be. **LG** then asks Ms. Foster if she had approached the Planning Board regarding the berm. *Response:* **Laura Foster** approached David Worth who she believes was also concerned due to the run off in the road causing cars to hydroplane. **LF** explains that Daisy Welch directed that the berm be constructed and it is now failing.

**LG** asks if it was the Planning Board that instructed Mr. Bradway to have a berm constructed.

**JO** states that if the Planning Board originally instructed Mr. Bradway to put that berm in then Mr. Bradway is responsible for maintaining it the entire time. **JO** suggests contacting Mr. Bradway directly to fix it.

**LF** continued with her concerns over the site visit minutes. Referencing the dialogue about how you could see more arrays than noted on the plans. **LF** states that she recalls James counting (1-2-3-4-5-6) and she asks the board if they recall James doing that. *Response:* The planning board does not recall James' exact wording.

**LH** stated that after the site visit on **Laura Foster's** property she had gone home and reviewed the plans.

**Laura F** interjects that she had a copy of the plans that show the plantings were supposed to be done to cover the arrays, counting all six of them. **Laura F** contends that they have put on extra arrays. **Laura F** read from the site visit minutes quoting "Planning Board will be rechecking plans to make sure nothing has changed."

**LH** states that she has been in contact with NEXAMP in regards to getting updated plans. **LH** has also been in contact with NEXAMP about the plantings that were supposed to be put in.

**Laura F** does not feel as though NEXAMP cares about the abutters concerns.

**LH** explained that she had approached the individuals who were doing the planting on site and their plans did not reflect what hers showed. **LH** explained to the individuals planting that new plans were to be submitted to the Planning Board.

**Laura F** asked **LH** if she was referring to the 4-corner location where you go to the entrance, which **LH** confirmed that's where she was referring to.

**Laura F** states that there are no arborvitaes despite what the individuals told **LH**. **Laura F** contends that the numbers of arrays are illegal because she was told she was not supposed to see the arrays.

**LG** asks **Laura F** when she received the plans that she has and **Laura F** responded that she received them from the highway superintendent.

**JO** suggests that we try and locate the original plans.

**Laura F** adds that she has a new concern in regards to the solar panels. **Laura F** states that she is unable to go in her backyard in the afternoon due to the solar glare off the panels.

**LH** states that the panels should be facing south. **Laura F** states that she has solar glare and she can have her daughter send the video showing this.

**DP** adds that she has witnessed the glare from **Laura F's** property as she was driving by.

**LG** then asks if it is state law that solar arrays cannot be facing the road. **JO** asks if there is a specific time of day that the glare occurs. **Laura F** responds that the glare starts around 4 in the evening.

**Laura F** asks why James (being a member of the Planning Board) would say she wouldn't see the arrays. The Planning Board discusses seeing the plans so they could determine why that statement was made.

**LH** explains that if it is 110 ft. from **Laura F's** pin to that first array which the Planning Board witnessed at the site visit. **LH** continues that **Laura F's** plans she received are inaccurate, that they do not reflect that the array is 110 ft. from the pin.

**Laura F** clarified that the plans were given to her for proof of where the plantings were supposed to be. **Laura F** asks **LH** if she has anything in writing that shows what the height of the plants should be. **LH** responds by reading from the plans that the arborvitaes are supposed to be 4-6 ft. tall. **Laura F** points out that 4-6 ft. will not hide the arrays.

**LH** reads that boxwood, dogwood and azaleas would be 3-4 ft., stating that the ones by the entrance are about a foot tall. **LH** explains that all communication with NEXAMP is done through the town's attorney. **LG** states that she will be speaking with town counsel regarding updates about NEXAMP.

**Laura F** asks what the final permit issued would be for NEXAMP to start operation (construction). **LG** responds that that would be the building inspector.

**DL** asks if the Planning Board would need to sign off before the building inspector does. **LH** responds that the permit was already signed off on, and that the building inspector and electrical are the last to sign off. **LH** states that NEXAMP is supposed to be up and running in 3 weeks to a month.

**JO** asks if NEXAMP has put up fencing yet. **LH** responds that it was supposed to go up that day.

**Laura F** asks if the building inspector is supposed to be following the progress of all the different stages.

**JO** responds that there is a checklist, for foundations, for structures but beyond that as long as NEXAMP are in parameter of the MA General Law they cannot do anything. **JO** states that the solar project has to be built to print in order for the building inspector to sign off on it.

**LH** points out that the electrical inspector has to sign off before the building inspector.

**Laura F** asks the Planning Board if anyone has had an opportunity to re-check the plans. **LH** responded by saying that she looked over the plans that she believes are correct.

**Laura F** inquired about the easements that Mr. Bradway extended to NEXAMP. **LH** clarifies that there are 4 easements, pointing out that behind the arrays that Laura F is seeing from her property is about 2 acres of land. There was an easement that was given, that was supposed to be a lay down area. **Laura F** asks what a lay down area is. **LH** explains that a lay down area is where the construction crew would store equipment and materials. On the plans it does state there is a little ledge that shows you how many plants will go in.

**Laura F** expresses her frustration with the fact that this has been a learning process for the town but at the abutter's expense. **Laura F** asked if the new by-law for solar fields was 150 ft. from any abutting neighbor's property line. **LH** confirms that it is 150 ft. around the entire site.

**LG** points out that that did not apply to NEXAMP's project because at the time the by-law stated that the site only had to be 50ft. from abutters.

**Laura F** asks where the 100 ft. came into play, asking how they were able to be so close to her property line.

**JO** states that originally they could have been as close as 50 ft., but NEXAMP moved it to 100ft because that was there preference and that is what their plans reflect. It was changed to 150 ft. after the fact.

**LH** encourages Laura F to be persistent with your concerns.

**Laura F** expresses her frustrations again that the previous chair made a statement that was very ominous and no other members spoke up or corrected him. **Laura F** then asks what she is supposed to do about the new issue of the solar glare.

**LH** encourages Laura F to contact the board of selectmen.

**DP** confirms that she witnessed the glare from the road while driving from Wales to Union.

**DL** explains that the Planning Board is trying to piece everything together. **DL** believes that Mr. Whalen had the best intentions for the town with trying to change the solar by-laws but due to the rapid pace of these projects the board has tried to keep up to task with the process.

**Laura F** reiterates her frustrations with Mr. Whalen's statement that she would not see arrays.

**LH** states that the board was misrepresented by that statement.

**Laura F** states that since Mr. Whalen is a member of the Planning Board representing the town he has made this a liable situation. **Laura F** continues that NEXAMP is not even complying with the planting that was on the original permit. **Laura F** states that NEXAMP is in dereliction of what they should do, continuing that they have a responsibility to follow through with the plans. **Laura F** believes in the benefit of solar projects but not when it affects her quality of life and the well-being of her property. **Laura F** frustrations stem from the lack of help from the DEP and other parties to have her issues addressed.

**LH** references the plans from NEXAMP that the arborvitaes are to be 4-6 ft. tall, bayberries 3-4 ft., dogwood 3-4ft. and pink azaleas 3-4 ft. **LH** states that NEXAMP was supposed to provide updates of each phase which the planning board has received nothing.

**LG** noted that this would be discussed with town counsel.

**Doug D** submits paperwork of the old by-laws that were approved.

**JO** reads "Lighting of large ground mounted solar panel installations consistent with local, state and federal laws. Lighting of other parts of the installation such as aperture structures shall be limited to that required for safety and operational purposes and should be shielded from abutting properties. Mounted lighting of the large scale grounded solar panel installation should be directed downward and incorporate and incorporate cut off fixtures to reduce light pollution."

**Laura F** reiterates that the sight of the arrays from her property diminishes her property value. **Laura F** is dismayed with the 6 arrays that were not supposed to be there.

**LH** responds by pointing out that the arrays are noted in the plans. **Laura F** asks LH what set of plans she is referring too. **LH** responds by stating that her plans are the updated plans.

**JO** states that those plans are the permit set and NEXAMP has to build according to those plans that were approved.

**LH** point out that 7/25/19 was the last time the plans were updated; the plans go back as far as 10/20/17. **LH** explains that the original plans had arrays by the road and DEP wanted them moved.

**LG** reiterates that town council needs to be notified that we are not receiving progress updates.

**LH** found upon looking through documents that it was noted that on 2/1/18 the "new solar array- 1 layout-fence line to meet set back requirement panels added to array 2".

**JO** asks when the last revisions were made to these plans. **LH** responds stating that 7/31/18.

**JO** wants to clarify that the extra panels that were taken from the 4 corners were added to the backside of the arrays on 2/1/18 and our last revised plans are from 7/31/18. The Planning Board will look back to confirm that there was a public hearing after those arrays were added.

**Laura F** expresses that she did not agree with town council's suggestion that she have an attorney to deal with the water run off on her property.

**JO** corrects Laura F in stating that town council did not suggest she have an attorney but in fact he recommended that Laura F deal with Mr. Bradway directly as this is a neighbor to neighbor issue.

**Laura F** states that she will send Mr. Bradway a certified letter (giving him 14 days to respond) and CC the Planning Board. Laura F's area of concern is whose responsibility it is since Mr. Bradway leases that land where the berm is failing.

**JO** believes that NEXAMP would be responsible for inside the fencing, Mr. Bradway would be responsible for anything outside that fencing, which is where the easements that he issued come into play. They are still on Mr. Bradway's property, it is not property leased by solar co., and Mr. Bradway has given them permission.

The Planning Board discusses what department should be notified (conservation/environmental) due to the storm water run-off.

**LG** invites Mr. Dickinson to come up and present his information.

**Doug D** explains what the content of his paperwork is. **Doug D** is concerned of what will happen in the future with Sizer Dr. **Doug D** points out that the abutters need to see the revised plans with new indication of where Sizer Dr. ends and the right of way. **Doug D** also has concerns over the proper ownership of the property. **Doug D** asks about Barbara Lee's land receiving tax breaks due to it being protected under the wetland protection act. **Doug D** asks that since they receive tax breaks can they legitimately lease it. **DL** responds that they will take it out Chapter 61 and pay back taxes.

**Gary B** asks the board if the property owners know they will be responsible for paying the fine.

**JO** stated that the property owners would need to verify that they are in Chapter 61.

**LH** referenced the similarity with Mr. Bradway's property being Chapter 61 and that had to come out chapter land before they could start leasing.

**Gary B** expresses that he does not want to be Laura Foster's situation six months to a year from now.

**LH** explains that the Planning Board is trying to learn from what has previously happened and the Planning Board is trying to follow rules, regulations and procedure.

**DL** brought up that when there was a concern about sound they were able to test for sound but now with this concern over the glare, we do not know of such testing.

**Gary B** explains that the panels usually face parallel to the sky which would have minimal glare but when you're on a hill they would need to be tilted.

**JO** inquires if there is some type of apparatus that can be put on the edge of the panels to deflect any glare.

**LG** explains that in most cases if the panels are near the road they are facing away from the road.

The Planning Board confirmed with Doug D that the continued hearing is July 8<sup>th</sup> at 6:30 PM.

**SR** asked the board for clarification on what the discussion was about contacting the board of assessors.

**JO** suggested contacting the board of assessors to find out what kind of breaks or what kind of Chapter land Sizer Dr. are in and see what the taxes they have paid on. Since Mr. Bradway is leasing the land now he would be responsible for 5 years' worth of back taxes.

**DP** states that we need to hold these companies accountable for what they are not following through on.

The Planning Board begins to discuss the solar by-laws. **LG** explains the confusion after talking to Leis (Town Clerk) about "as of right" setting and also a special permit that you can't have both.

**DL** asks if large scale solar companies are "as-of-right". **LG** states that we would be better off having a special permit.

**DL** states that it is "as-of-right" to put a solar panel on your personal roof.

**LG** points out that the wording needs to be changed.

**LH** suggests that the planning board revamp filing fees and planning board application.

**LG** then asks the members to sign vouchers.

The board discusses signing a voucher from a collection agency on behalf of The Republican. The board has already signed for this bill to be paid so there is some confusion as to why we are still being billed.

**LG** asks SR to check with the town accountant if the bill was previously paid.

While SR checks with the town accountant the board continues to discuss the need for the board to have established fees. The board references the Town of Brimfield's fees to help guide us in establishing ours.

The board discusses signing a voucher for the previous clerk's hours. The board expresses concern over signing off on the hours submitted due to the inability to locate documents that were supposed to be left for SR.

**JO** asks **SR** to look into what dates the board had public hearings during those hours that the previous clerk submitted.

After talking with the accountant **SR** explains that the last bill on behalf of The Republican that was submitted to the board was a “balance forward”, which the accountant cannot pay a bill from a “balance forward”, she would need an invoice showing the ad’s that the Republican is referencing.

**Val (Town Accountant)** enters the discussion by explaining that this bill was paid in August 2018 for an ad in July 2018. **Val** asks **SR** to find out what the ad number was that they are currently billing us for, so we can confirm whether or not we did in fact pay this bill. **Val** gave **SR** a printout showing the check # and when it was paid.

**Val** also points out that the Planning Board escrow account was used to pay the engineering company Weston & Sampson when Weston & Sampson was supposed to be paid by the solar company. Now the Planning Board escrow account is in deficit of \$1,700. **Val** explains that notes were left for the previous clerk about this issue and that she spoke to James Whalen as well and he reassured her we would get payment from the solar company (NEXAMP), which we still have not received. **Val** explains that somebody put it on the warrant and paid it before the town received the money and the account was in deficit.

**SR** mentions that a bill from Weston & Sampson was just forwarded to Sunpin. Sunpin had asked whether they pay the engineering company directly or pay the town. The board recommends that Sunpin pay Weston & Sampson directly but that the board is forwarded necessary documents showing proof of payment for our records.

**Val** gives **LG** a copy of the warrant that shows the town paying Weston & Sampson prior to NEXAMP paying the town, which resulted in the deficit.

The board looks over Brimfield’s permit fees and application process as a way to guide us in establishing our own fees and application process. The selectman will need to approve the fee’s the planning board suggests.

The board discusses what concerns and questions will be brought up to town council during the scheduled phone call.

**LH** suggests raising the town’s soil permit removal fee. It was set at \$250; meaning that whoever pays’ the \$250 can remove unlimited amounts of soil. The board would like to put a limit of X amount of yards of soil per \$250.

The board discusses putting a time limit on agenda items due to the meetings taking several hours.

**LH** makes a motion to adjourn at 9:42 PM, **DP 2<sup>nd</sup>**, all in favor.