



Stratham Planning Board Meeting Minutes
November 2, 2022
Stratham Municipal Center
Time: 7:00 pm

Members Present: Thomas House, Chair
David Canada, Vice Chair
Mike Houghton, Select Board's Representative
Chris Zaremba, Regular Member
John Kunowski, Alternate Member
Pamela Hollasch, Regular Member

Staff Present: Mark Connors, Town Planner
Susan Connors, Planning Project Assistant

1. Call to Order/Roll Call

Mr. House called the meeting to order at 7:01 pm and took roll call.

2. Approval of Minutes

a. October 19, 2022

Mr. Zaremba made a motion to approve the meeting minutes from October 19, 2022. Ms. Hollasch seconded the motion. All voted in favor.

3. Old Business – Public Meeting:

Michael Flanagan, James Flanagan, and Ellis S. Grossman (Owners), James Flanagan (Applicant) - Route 33 Heritage District Application request to demolish a barn at 249 Portsmouth Avenue (Tax Map 2, Lot 6), Zoned Route 33. Heritage District.

Mr. Connors presented the topic. The project was discussed at the October 5, 2022 Planning Board meeting, but action on the application was tabled pending a site walk with preservation experts. Mr. Flanagan held an additional site walk with Nate Merrill, chair of the Heritage Commission; Drew Bedard, a preservation specialist; and Professor John Porter with the UNH Cooperative Extension who specializes in barns. The site walk was held on October 15, 2022 and written comments were provided by Mr. Merrill and Professor Porter. There was a consensus that the barn needs to be demolished and there was no objection to the Planning Board approving demolition of the barn. Mr. Merrill recommended that an inventory of the property be completed by the Heritage Commission and that any salvageable beams be preserved for reuse at the property or by others.

Mr. Canada commented that the economics of preserving historic properties needs to be addressed so that other important structures do not continue to fall into disrepair and is concerned of setting precedence with this project. Mr. Connors responded that there is some talk of providing financial assistance for the maintenance of historic buildings and the Heritage Commission is leading that task. Mr. House commented that buildings in need should be identified before they get too far along. Mr. Houghton suggested that the Town seek an opinion from the Town's attorney regarding the extent of the Town's authority in these matters and added that there has been movement in the past two weeks by the Heritage Commission and the Select Board on the topic of historic preservation. More research and discussions are needed to create solutions but it is an active discussion.

Mr. Canada made a motion to open the public meeting. Ms. Hollasch seconded the motion. All voted in favor and the motion was approved.

Mr. Flanagan reiterated that the topic of cost is important and the heirs will spend a considerable amount of money constructing a building around the portion of the existing structure that can be preserved. Mr. Flanagan proposed to preserve a wood shed constructed in the 1970's that is attached to the barn as long as it is not damaged during demolition of the barn. Work is proposed to be completed in the spring of 2023 as it is getting late in the season and he is not on the contractor's schedule. A new façade similar to a carriage shed will be constructed around the wood shed.

Ms. Hollasch made a motion to close the public meeting. Mr. Zaremba seconded the motion. All voted in favor and the motion was approved.

Mr. Canada asked Mr. Flanagan what plans are in place to preserve the home. Mr. Flanagan stated the home may need some sills replaced but he holds only a small interest in the property. The heirs will need to have a discussion regarding the proposed work to preserve the wood shed and maintenance for the home. Mr. Canada mentioned the vegetation growth around the home and Mr. Flanagan responded that he agrees the growth should be removed but that the sill damaged has probably already occurred.

Mr. Houghton made a motion that the Planning Board approve the Route 33 Heritage District application submitted by James Flanagan (applicant) to demolish the barn at 249 Portsmouth Avenue (Tax Map 2, Lot 6) subject to the following conditions:

- 1. The applicant shall obtain a demolition permit from the Stratham Building Department and confirm with the Town Planner a definitive date for demolition by the end of November 2022 with a target date for demolition of June 1, 2023.**
- 2. The applicant shall submit a Route 33 Heritage District application no later than May 1, 2023 with plans for the proposed structure to enclose the existing concrete structure.**
- 3. Prior to demolition, the applicant shall provide the Heritage Commission a reasonable opportunity to visit the site to complete a photo inventory of the barn and site sketch documenting the barn and its dimensions. These visits shall be coordinated by the Town Planner or Heritage Commission Chair at periods that are agreeable to the applicant.**
- 4. The applicant shall salvage beams and/or timber frame pieces that are in good condition. The applicant shall provide the Town Planner an opportunity to visit the site during such salvage efforts or otherwise provide documentation acceptable to the Town Planner that these efforts have been completed.**

Mr. Zaremba seconded the motion. All voted in favor and the motion was approved.

92 **4. New Business – Public Hearing:**

93
94 *Andrew and Eileen Maderios (Owners) - Request for approval of a conditional use permit to allow the*
95 *installation of a small ground mounted solar array at 190 Winnicutt Road (Tax Map 11, Lot 22), Zoned*
96 *Residential Agricultural. Owner/Applicant's representative is ReVision Energy, 7 Commercial Drive,*
97 *Brentwood, NH 03833.*
98

99 Mr. Connors presented the topic. Ground mounted solar arrays in the residential district requires a
100 Conditional Use Permit from the Planning Board. Written comments were provided by the Peter and
101 Katherine Viano, the abutters at 188 Winnicutt Road. The staff memo draws attention to the fact that
102 the Town requires ground mount solar systems to be installed in the rear or side of properties to the
103 extent practical. The panels for this project are proposed in the front of the lot near the side property
104 line. The Applicant provided a supplemental plan depicting some landscaping. The Vianos still have
105 concerns with the level of screening provided on the plan. Mr. Connors recommends opening the
106 public hearing to receive abutters' comments but to postpone action on the application until the
107 abutters and Owners come to an agreement on the landscape plan.
108

109 **Ms. Hollasch made a motion to open the public hearing. Mr. Zaremba seconded the motion. All**
110 **voted in favor and the motion was approved.**
111

112 Heather Iworsky from ReVision Energy spoke on behalf of the Owners. The solar array will offset
113 100% of the electric use at the Owners' residence. The array is grid-tied and already approved with
114 Unutil with no additional poles or transformer upgrades. The roof is not suitable for a solar energy
115 system as it is heavily shaded, not facing south, and the roof is not contiguous. Other areas of the yard
116 were explored for a suitable location. The backyard has a septic system and an in-ground pool. The
117 water supply well is located on the opposite side yard from the proposed array location. Ms. Iworsky
118 briefly described the solar array components.
119

120 Ms. Iworsky stated the proposed location is very sunny and the panels will be south-facing. There are
121 large oak trees along Winnicutt Road that passed the shading analysis along with some large evergreen
122 trees behind the panels towards the Vianos's property. The evergreens will provide some screening
123 and the Owners propose some additional viburnum shrubs behind the array on the Owners' property
124 for additional screening. Mr. Canada asked why a deciduous variety was proposed instead of an
125 evergreen. Ms. Iworsky stated that the variety was suggested by Mr. Viano. The typical arborvitae
126 could also be used, but they need to review the soil, landscape, and space to determine what would be
127 best suited there. There is no other suitable location for the solar array and it would be a hardship for
128 the Owners if it wasn't approved with the increase in electricity costs. The array is non-toxic and will
129 not produce any light, noise, or glare to drivers. Ms. Iworsky compared the visual aspect of the solar
130 array to overhead wires and poles.
131

132 Mr. House asked for clarification on the location of the septic system. Mr. Maderios pointed out the
133 location on the plan for the Board. Mr. House asked why the solar array can't be placed farther back
134 from Winnicutt Road on the side of the house. Mr. Maderios and Ms. Iworsky responded that there
135 are trees that would be needed to be removed in that location along with additional site work. Mr.
136 House asked if the array can be moved farther from the front setback as the application is seeking
137 approval for a location not allowed in the zoning ordinance. Ms. Iworsky responded that the array
138 would still technically be in the front of the house because there are trees that would prohibit moving
139 it too far back and the garage would shade the solar array. Mr. Maderios added that the location was
140 chosen to use existing trees for screening.

Mr. Kunowski asked what kind of trees are along the street. They are oak. Mr. Canada asked if any visual screening from vehicles traveling northbound on Winnicutt Road is proposed. Ms. Iworsky responded that there are existing mature trees and no real abutters from that angle so they have not proposed any additional screening. Mr. Canada stated he has heard negative comments from residents in town regarding other solar arrays that are visible from the street. Ms. Iworsky compared the solar array to other existing above ground utilities. Mr. Canada stated that the zoning ordinance requires solar arrays to be installed in the rear or side yards and as this application does not meet that requirement, the Owners should provide suitable screening. Ms. Iworsky and Mr. Maderios agreed that additional screening along Winnicutt Road can be added. Ms. Iworsky stated that unfortunately they cannot move the array due to the natural landscape.

Mr. Viano commented that he provided photos of the view from his side of the property line that show a completely different picture than photos from the Owners' property provided in the application. The blue spruce trees in the photos look good from the south side which is the Owners' property, but from the north side a lot of branches are dying back and the trees are thin. One particular room in the Vianos's home has an unobstructed view of the proposed location for the solar panels. The viburnums suggested in the landscape plan are not evergreen shrubs in this planting zone, are only hardy to zero degrees, and will not survive the winter. Mr. Viano also commented that the panels will be visible from Winnicutt Road and the photos submitted in the application are taken at angles that do not depict an accurate representation of existing vegetation. Mr. Viano also believes a large maple tree between the proposed location and Winnicutt Road is dying and will need to be removed soon which will remove additional screen from the road.

Lisa McManus, abutter at 192 Winnicutt Road Unit 2, commented that she walks Winnicutt Road daily and it is her opinion that the trees are thick along the road but she agrees that if the maple tree mentioned by Mr. Viano is removed, then one would probably be able to see through that section. Ms. McManus added that Mr. Maderios does a very good job at keeping the yard looking good and she is not concerned with the solar array being an eye sore.

Rene Woodard, abutter at 1 Charles Drive, commented she is concerned with screening from across Winnicutt Road particularly in the winter. Ms. Woodard asked the height of the solar panels and Ms. Iworsky responded that they are 11 ½ feet tall from ground to top. Ms. Woodard asked if the vegetation proposed will be installed at 11 feet tall or if it will need to grow in. Ms. Iworsky responded that normally trees are not planted at full maturity and it will take some time for them to mature, but the goal is for them to be purchased and planted at a decent age and height and spaced out and that the landscaper would assist with that.

Parnell Woodard, abutter at 1 Charles Drive, commented that the trees they planted on their property were purchased at 7 to 8 feet tall and were difficult to buy. It took over 10 years for them to reach a height that would hide something the size of the solar array. He is concerned with the view from Charles Drive. Mr. Viano added that he has spoken with other residents of Charles Drive who expressed concerns with the view from Charles Drive.

Mr. House asked if Mr. Viano has spoken with the Owner regarding landscaping. Mr. Viano responded that they spoke in the past about it but they stopped speaking and he doesn't know why. Mr. Viano added that Mr. Maderios never came over to Mr. Viano's yard so he could see the view and Mr. Viano doesn't believe Mr. Maderios is aware of the view from the Viano's yard.

Kathy Viano commented that Ms. Iworsky stated that the Vianos requested the viburnums, but that

was a mistake in communication. Mr. Viano suggested planting viburnums around the Maderios's pool. She added that they requested Green Giant Arborvitae because they are evergreens that are deer tolerant.

Mr. House recommends that the Owners and abutters talk again about a landscaping plan. Mr. Maderios stated that they started speaking to the Vianos a year ago before they even got quotes and there was no objection. All objections raised are from within the last week. Mr. Maderios stated that they did agree to add some screening to supplement what was already there. Mr. Maderios speculates that the Vianos had planned to remove their own spruce trees and that now the Maderioses are being asked to put in the Viano's landscape desires at the expense of the Maderioses.

Mr. House asked if Mr. Maderios has spoken with the Woodards. Mr. Maderios responded that he has not, but would be happy to. Mr. House believes their objections are valid.

Mr. Viano stated he spoke a few times with Mr. Maderios but they had not discussed the specifics of the plan. Mr. Viano is simply looking for the job to be done right and five plants are not sufficient. Mr. House instructed the Vianos and Maderioses to speak offline.

Mr. Houghton stated that considerable thought and effort was put forth in the development of the ordinances and largely to maintain the character of neighborhoods in town which led to the requirement to construct solar arrays in the rear or side yards ultimately so they are invisible. Mr. Houghton encourages the Owners to create a landscape plan that make the solar array invisible and come back to the Board with a landscape plan. Mr. Houghton understands the constraints of the lot.

Ms. Iworsky requested a conditional approval because landscaping cannot be installed in the winter. Mr. Houghton responded that the landscape plan can be created and the condition of approval can be that the landscaping is installed according to the plan by a certain date. Ms. Iworsky stated the goal is to install the solar array by the end of the year or else they will be pushed out due to weather to April or May. That would be a hardship for the Owners in terms of additional electric bills. Additionally, the utility process will expire by then and the utility is severely understaffed.

Ms. Iworsky asked for confirmation that it is just the northwest corner of the parcel that a landscape plan is required. Mr. Canada added that he is concerned with the northern approach along Winnicutt Road. Ms. Hollasch did not agree with Mr. Canada. The board debated the extent of the screening needed and Mr. House confirmed that the northeast corner was sufficient. Mr. Canada suggested approving the application tonight on the condition that a plan is submitted. Mr. Connors advised against approving the application tonight and instead continuing it until the next meeting because the abutters have the right to appeal the decision and that has happened before in Stratham and the court could tie up the project for many months. Mr. Connors added it is in the Owners' best interest to come to an agreement with the neighbors and he volunteered the Town's offices for a neutral meeting location. Mr. House added that the Board just received comments this evening and haven't had a chance to fully review them. Ms. Iworsky asked for clarification on the schedule. Mr. Connors stated that ideally by Friday, November 11th the plan should be created, shared with the abutters, and submitted to the Town so the Board has time to review it before the next Planning Board meeting on November 16th. Mr. Canada asked if a New Hampshire certified landscaper is required for this project. Mr. Connors responded that is not the case for solar projects. Mr. Houghton reiterated that they need to be hardy plants that provide adequate screening.

Mr. House made a motion to continue the meeting to November 16th. Ms. Hollasch seconded the

239 **motion. All voted in favor and the motion was approved. Mr. House stated that the public**
240 **hearing is not closed.**
241

242 **5. Other Business**

243 a. Proposed 2023 Zoning Amendment Workshop:

244 1. Review letter re: Professional/Residential setbacks and discussion

245 Mr. Connors presented the topic. The Board has discussed this topic in the past and supported
246 it. The Professional/Residential District is a small district along Portsmouth Avenue from
247 Bunker Hill Avenue to the Stratham Circle. The new owner of the former Sweet Dreams
248 Bakery located at 100 Portsmouth Avenue submitted a letter to the Planning Board requesting
249 a reduction to the current setback requirements for this property. Per the Zoning Ordinance,
250 this parcel requires a 100-foot setback from the front property line, but the existing buildings
251 are setback approximately 20 feet. [Ms. Hollasch left the meeting.]
252

253 Mr. House requested confirmation that there is not an application before the Board but instead
254 a request for a zoning change. Mr. Connors confirmed. Mr. House noted that the lot in question
255 drops off in the back affecting future development and asked if this is the only property in the
256 District affected. Mr. Connors replied there are some other buildings in the district that it would
257 apply to. The owner is asking the Planning Board to propose an amendment to the Zoning
258 Ordinance that would allow for improvements to the property. Alternatively, the owner could
259 put forth a petition amendment where they obtain enough signatures to put an amendment on
260 the ballot.
261

262 Mr. Kunowski stated that does not want to compromise existing use and is in favor of relaxing
263 the setback requirements for an existing structure rather than relaxing the setback requirement
264 in the zoning ordinance. Mr. House suggested they add to the zoning regulations that the
265 existing building footprint must be used, can be expanded, but a property owner cannot tear
266 down an existing building and construct elsewhere on the property. Mr. Kunowski added that
267 if an applicant does not use the existing building footprint and they tear down an existing
268 structure, then the zoning setbacks should apply. Mr. Canada commented that the ZBA could
269 review projects as well. Mr. Houghton commented that the Board should contemplate the
270 request and think through the unintended consequences to a zoning setback change for one
271 property. Mr. Houghton agrees with Mr. Canada's comment that one property owner could
272 seek relief through the ZBA process instead of a zoning change. Mr. Connors does not know
273 if the new property owner has considered the ZBA process and stated the new owner has just
274 purchased the property and likely won't be ready for any process until March.
275

276 The Board decided to table the discussion until the November 16th meeting. Mr. Connors will
277 provide more information on neighboring properties.
278

279 2. Source water protection measures discussion

280 Susan Connors presented an overview of drinking water supply well construction, ground
281 water supply contamination, public water system regulation and how those subjects correlate
282 with Stratham's existing Aquifer Protection District (APD) Boundary. The presentation
283 expanded on the previous presentation by Jennifer Rowland of the Rockingham Planning
284 Commission on suggested changes to the APD boundary and ordinance.
285
286
287

The presentation included a revised map, from the one prepared by RPC, that shows only the Community Public Water System Wellhead Protection Areas in Stratham along with the existing district. This revision would expand the existing district to the primarily residential areas of town while leaving the Gateway Commercial Business District out of the district.

Next Steps: Planning staff do not recommend the map presented by RPC that includes the non-community public water system wellhead protection areas because it covers the majority of town. However, some of the prohibitions could be applied town-wide. Planning staff can review the NHDES model aquifer ordinance and compare it to Stratham's existing ordinance. Staff will also provide additional maps showing different suggestions for revising the Aquifer Protection District boundary.

3. Sign Ordinance amendments

Topic tabled for a later meeting.

4. Submittal of supplemental application materials.

Mr. House requested this topic for discussion. Too frequently Applicants will submit additional materials on the night of the public meeting making it difficult for the Board to thoroughly review the materials to make a reasonable decision. The site plan and subdivision regulations can be updated to include a deadline for submittal of materials by the Applicant. A deadline cannot be imposed on abutters' comments. Typically the packet for the meeting is sent electronically to the Board on the Friday prior to the meeting date so the Board has sufficient time to review the materials. If the new information is not sent to the Board prior to the meeting then there may not be sufficient time for review, additionally the information is not included in the public information packet online.

Mr. House commented that the Applicant's material can be very technical needing proper review. If the supplemental information is submitted to help clarify the application, then that is not the concern. Mr. Houghton commented that in his experience, as an applicant in other towns, he is overly accommodating to the burden of the board and other towns are very assertive in maintaining the integrity of their regulations. Stratham is very accommodating to the extent to detriment of the boards and puts a burden on the volunteers.

The Board recommended adding language to the regulations that if materials are not submitted timely for sufficient review, then the Board's action on an application could be postponed to a later meeting.

5. New Planning Board Member application

Mr. Connors introduced Nathan Allison who is a Stratham resident and a retired civil engineer who has applied to be a member of the Planning Board.

Mr. Houghton made a motion to enter non-public session at 9:22 pm, permitted under NH RSA 91-A:3, for the purposes of considering legal advice provided by legal counsel. Mr. Zaremba seconded the motion. All voted in favor and the motion was approved.

6. Adjournment:

Mr. Houghton made a motion to adjourn the public meeting at 9:30 pm. Mr. Zaremba seconded the motion. All voted in favor and the motion was approved.