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**Planning Board Minutes – September 15, 2020**

A meeting of the Town of Freetown **Planning Board** was held on **September 15, 2020** at 4:15 pm over Zoom. **Present:** Chairman Keven Desmarais, James Frates, David Crose, Christopher Mello, Robert Jose, Debra Robbins

**Chairman Desmarais** read the opening meeting statement authorizing virtual meetings due to the COVID 19 Pandemic.

**Continued Public Hearing – 1 Madeicha Way**

**Chairman Desmarais** called the public hearing for 1 Madeicha Way back to order.

**Chairman Desmarais** entertained a motion to continue the public hearing to October 6, 2020 at 4:15 pm via Zoom. **Mr. Jose** moved and **Ms. Robbins** seconded. The motion passed unanimously.

**Continued Public Hearing – Freetown Solar II**

**Chairman Desmarais** called the public hearing for Freetown Solar II back to order.

**Chairman Desmarais** entertained a motion to continue the public hearing to October 6, 2020 at 4:15 pm via Zoom. **Mr. Jose** moved and **Mr. Frates** seconded. The motion passed unanimously.

**Continued Public Hearing – Michkev RE LLC**

**Chairman Desmarais** called the public hearing for Michkev RE LLC back to order.

**Chairman Desmarais** entertained a motion to continue the public hearing to October 6, 2020 at 4:15 pm via Zoom. **Mr. Jose** moved and **Mr. Frates** seconded. The motion passed unanimously.

**Continued Public Hearing – Quarry Drive-Bryant Hill LLC**

**Chairman Desmarais** called the public hearing for Quarry Drive-Bryant Hill LLC back to order.

**Chairman Desmarais** entertained a motion to continue the public hearing to October 6, 2020 at 4:15 pm via Zoom. **Mr. Jose** moved and **Mr. Frates** seconded. The motion passed unanimously.

#### Continued Public Hearing – 125 South Main Street, LLC

**Chairman Desmarais** called the public hearing for 125 South Main Street LLC back to order.

**Chairman Desmarais** explained that this public hearing was previously continued to October 6 but was included in the agenda by mistake.

**Chairman Desmarais** entertained a motion to continue the public hearing to October 6, 2020 at 4:15 pm via Zoom. **Mr. Jose** moved and **Mr. Frates** seconded. **Ms. Robbins** abstained.

#### Continued Public Hearing – Proposed Changes to the Town of Freetown Protective By-Laws, Article 11 Zoning By-Laws

**Chairman Desmarais** called the public hearing back to order.

**Chairman Desmarais** said that the Board received a couple letters. **Chairman Desmarais** read a letter from the residents at 17 Algonquin Way. **Chairman Desmarais** addressed the complaint about holding the meetings over Zoom, **Chairman Desmarais** stated that the Board held out for as long as they could but between mosquito borne illnesses, a tropical storm forcing a meeting cancellation, and lack of restroom availability, outdoor meetings were no longer viable. **Chairman Desmarais** addressed the 4:15 pm meetings and said that they were scheduled early to limit exposure to mosquitos and after the October 6<sup>th</sup> meeting the meetings will be scheduled for 6 pm. **Chairman Desmarais** addressed a comment about the Board stating that solar projects were good for the town and brought in over a million dollars. **Chairman Desmarais** said he was just stating the amount of money that solar provided to the town. **Chairman Desmarais** shared a comment about how the Massachusetts Law was for residential solar but commercial solar has found success using it. **Chairman Desmarais** said that in essence the law limits the assessments that can be done on the solar array and associated improvements, which prevents the Town from collecting full value from the arrays. **Chairman Desmarais** added that the Town has been being paid full value for all solar arrays in town up to this point. **Chairman Desmarais** said there have been some court cases where the solar applicant has been successful but it has been pointed out that the legislature has to do something to fortify the language. **Chairman Desmarais** said about a year ago he reached out to the Town Administrator, after meeting with Rep. Carole Fiola, about how this needed to be addressed and that it's currently getting worked out. **Chairman Desmarais** said the town currently collects \$883,804.48 a year and that is not including the five arrays that have yet to be fully assessed.

**Chairman Desmarais** clarified that the proposed By-Law change will not affect any previously approved or submitted projects, only projects submitted after a By-Law changes is approved.

**Chairman Desmarais** said he is not going to read every letter and that Board members all have copies of the letters.

**Chairman Desmarais** read a letter from Planning Board member **Robert Jose**. **Chairman Desmarais** summarized and explained that there can be no derivations from a By-Law but Rules and Regulations allow for greater flexibility by giving the Board the ability to waive Rules and Regulations as the Board sees fit. **Chairman Desmarais** said he prefers By-Laws because they tell the applicant exactly what is expected but in this case it might make more sense to have minimum in the By-Law and then add additional restrictions to the Rules and Regulations.

**Chairman Desmarais** said they received letters both in favor and opposed to solar in town. **Chairman Desmarais** summarized a letter from Armand Clermont which discussed how solar has much less of an impact than other uses of the property and asked what the scientific basis was for increasing setbacks on solar. **Chairman Desmarais** explained that this letter was sent in by someone planning to apply for Site Plan Review for a Solar Array. **Chairman Desmarais** said he does not believe that any scientific study needs to be done to know that while a 50 ft setback is fine for a house it is not adequate for a solar array and needs to be further back in areas where it abuts residential property. **Chairman Desmarais** summarized a letter from Robert Claremont, which said that they were in the process of submitting an application for small solar project and have already applied to the state.

**Chairman Desmarais** explained that while some letters say there is no impact and some say there is a tremendous impact that the truth lies somewhere in the middle.

**Chairman Desmarais** read a letter from Associate Planning Board Member **David Crose** which simply stated that if the buffer is going to be referred to as vegetated then the wording should be consistent throughout the By-Law and asked how the proposed setbacks would work for an irregularly shaped lot where the setbacks would be greater than the lot dimensions. **Chairman Desmarais** said there are certain situations where a lot's limitations make it unsuitable for this type of development.

**Chairman Desmarais** said the wording in the proposed By-Laws should be arrays not lots. **Chairman Desmarais** said this would mean that someone could have an irregularly shaped lot and still meet setbacks as long as the array fit.

**Chairman Desmarais** asked the other Board members if they agree that someone of the smaller items that have been brought up in the discussion could be addressed in the Rules and Regulations and if they agree that a baseline setback should be established in the By-Law.

**Mr. Frates** said he likes **Mr. Jose's** idea to put most of this in the Rules and Regulations and said that he's not sure how much of an impact changing the base setback from 50 to 75 feet would have. **Mr. Frates** added that if the lot is heavily wooded he would like to see no-touch zones to protect the neighbors.

**Mr. Jose** said his intention for 50 ft or 75 ft setback was for it to be a buffer to visually screen the array from abutting properties. **Mr. Jose** explained that in cases where the lot is cleared it may make sense to require planting or screenings to act as a visual buffer.

**Mr. Mello** said he agreed with **Mr. Jose** and that he has been involved with a job site where they put a berm with a fence on top of it to act as a visual buffer to the neighbors.

**Chairman Desmarais** said it might be simplest to state in the Rules and Regulations that visual screening must be provided so that no visual impact will be seen by abutting residents or neighborhoods and ask

for renderings with elevations and site lines. **Chairman Desmarais** said this might help to ensure that whatever screening is proposed will effectively screen the array from neighbors.

**Chairman Desmarais** read a letter from 14 Algonquin Way which said that they think that a clear definition of vegetative buffer should be included as well as strong wording to prevent solar developers from dumping rocks and other debris on the property. **Chairman Desmarais** said a pile of rocks on someone's property is not the kind of minutiae that the Planning Board wants to get involved in. **Chairman Desmarais** added that the Board is not here to design the project for the developer.

**Chairman Desmarais** said what he is hearing is that the Board wants to have Rules and Regulations.

**Chairman Desmarais** said maybe the Board can use some of the technical assistance grant from the state to have the SRPEDD (Southeastern Regional Planning and Economic Development District) assist with drafting the Rules and Regulations.

**Chairman Desmarais** asked if the Board was in agreement that they need to put most of these changes in the Rules and Regulations. **Mr. Mello, Mr. Frates, Mr. Jose, and Ms. Robbins** all said they agreed.

**Chairman Desmarais** said the question now is if setbacks should be changed in the By-Law or just fix the problem in the regulations. **Mr. Frates** said since it's already set at 50 feet, which is the same as house lots, if an increase to 75 feet would make the neighborhood happy. **Mr. Jose** said the house clearing is a setback but the lot can still be cleared up to the street. **Mr. Jose** said that it's more important that some portion of the lot is a no-touch zone, leaving the natural state as it is. **Mr. Jose** suggested leaving the first 50 feet as a no-touch zone except to access the property for construction and maintenance.

**Chairman Desmarais** said it sounds like members are fine with maintaining the 50 feet as long as it's a no-touch zone. **Chairman Desmarais** asked the Planning Technician to prepare all the wording discussed today so that the Board can see it all together when it is voted on.

**Mr. Frates** asked where solar panels would go if there is a 50 foot no-touch zone filled with trees that is shading the property. **Chairman Desmarais** said he is not sure and that in the past developers have been allowed to cut the tops off of trees which provides a buffer but also allows light to get through. **Chairman Desmarais** said either the panels would have to be further back or the wording has to be specific to allow topping of trees.

Ryan Young, CVE North America, said he supports the Rules and Regulations version and that he would have no problem submitting and noise, light, or screening plans. Mr. Young said a 50 foot no-touch zone would be problematic because a land owner can just clear cut the lot before they apply for solar. Mr. Young said a better way to do is requiring screening in the Rules and Regulations. **Chairman Desmarais** said they are aware that people try and get around regulations but if a property owner clear cuts their lot they still may be responsible for providing a visual buffer.

**Chairman Desmarais** asked the Board if they would like to make a motion right now or wait until the Rules and Regulations are decided on. **Mr. Jose** said he thinks that normally the Board would close the public hearing and then discuss this in an open session without public comment. **Chairman Desmarais** asked if they should continue leaving the public hearing open or if they should close it.

**Mr. Jose** made a motion to close the public hearing. **Mr. Frates** seconded. The motion passed unanimously.

**Chairman Desmarais** explained that this means the Board is done taking public comment for this and all further public comment should be done during the Rules and Regulations public hearing.

**Mr. Jose** said he would like to keep the setback at 50 feet in the By-law until the Rules and Regulations are decided on. **Mr. Jose** added that he would like plans for screening, light, and sound emissions required in the By-Law. **Chairman Desmarais** said the Planning Technician will include all of this in By-Law change draft.

**Mr. Jose** said he is not averse to increasing the buffer in the By-Laws. **Chairman Desmarais** asked if the Board is in agreement that 75 feet be the standard and jumping off point for setbacks in residential areas. All Board members said they were in agreement with the 75 foot setback.

**Chairman Desmarais** explained that the Board closed the public portion of the public hearing but in order to have discussions on another night the Board will need to continue the public hearing to a later date.

**Mr. Jose** entertained a motion to continue the public hearing to September 29, 2020 at 6 pm via Zoom. **Mr. Frates** seconded. The motion passed unanimously.

#### **Discussion on Chapter 61 Removal Request for 0 Braley Road and 76 Quanapoag Road**

By consensus, the Board had no interest in buying either property

**Ms. Robbins** made a motion to adjourn and **Mr. Mello** seconded. The motion passed unanimously.

Respectfully Submitted,  
C. Nils McKay