

# **Palmyra Planning Board Meeting Minutes**

Date: 09/14/2021

- I. Call to order and flag salute** – Chairman Gary Beem called the meeting to order at 6 p.m. – flag salute.
- II. Roll call** – Planning Board Members present: Gary Beem, David Leavitt, Maurice Temple, Corey Dow, Billy Boulter  
Diane White, Secretary  
Selectmen present: Herbert Bates  
Other present: Debra Porter, Ken and Mary Ellen Fletcher, Zach Good (for BD Solar)  
Hometown Health Center Representatives: Tom Emery, Robin Winslow (CEO), Mike Devine (counsel for the applicant)
- III. Correspondence**
- Billy – Hometown Health Center correspondence – see Billy's report (Attachment 1)
- IV. Process Land Use Permit Applications**
- Eli Hostetler – Map 1, Lot 58 – Storage Shed
    - Right, Title or Interest – Motion made by Billy and seconded by Dave that adequate proof has been provided. All in favor.
    - Completeness – Zoning district not complete (this was added). Eli has entered as commercial. Diane said that this is a storage shed so this is an error on the application. Confusion on where the shed would be located. Billy has visited the site. Determined that setback requirements are met and it is not located in the farmland or tree growth areas. Motion made by Dave to accept as complete—seconded by Billy. Gary, Dave, Corey, and Billy in favor.
    - Compliance – Dave said that the application looks compliant. Motion made by Dave to grant the permit—seconded by Billy. All in favor.
  - Debra Porter - Map 8, Lot 41-1-A addition
    - Right, Title and Interest – Motion made by Billy that right, title or interest has been proven—seconded by Dave. Dave, Maurice, Corey, and Billy in favor.
    - Completeness – zoning district filled in by board member. Billy questioned the acreage—deed has 2.37 but Debra's application shows 1.37 acres. Debra explained that the original owner had sold a portion of the lot to her. Billy said that the wastewater permit date was incorrect—this was corrected. Motion made by Dave to accept as complete—seconded by Billy. All in favor.
    - Compliance – Billy said that he had stopped by today and noticed that construction had started and that there is another shed on the property. Debra explained that she wanted to take advantage of the good weather. He questioned whether or not the CEO visited the sites to confirm setbacks—unknown. Diane had talked to Travis about this. He said that the existing home is nonconforming, but the addition is being built 75 feet back, so it is compliant. Motion made by Dave to accept as compliant with our ordinance—seconded by Billy. Dave, Maurice, Corey and Billy in favor.

*Dave asked if Old Business (Solar Farm Deliverable Matrix) could be taken out of order. Board members and Hometown Healthcare representatives agree.*

**Old Business – Solar Farm Matrix** – update by Zach Good, Assistant Project Manager  
*Mr. Good explained that he had talked to Travis last week and he recommended that he come in to answer questions and to update on the progress made on the matrix. Discussion on water testing: Dave asked if they were conforming to the water regime—Mr. Good said they are. They have identified five properties (two across the interstate) and are making contact with the landowners to get permission to test their water for baseline monitoring. The report should be available within four weeks. Baseline test to be done and then testing will be done twice annually (to check for changes). Maurice asked about the location of the wells. Mr. Good said that two wells chosen were to the south of the interstate. There is not much value to doing wells to the north because it is all uphill. Dave said that Dan Ready and Josh and Kate Burrill were residents that came to the sessions and had an interest—he might want to consider them for well testing. Maurice asked if the panels they plan to use are the same as the panels that were approved—Mr. Good said that they were the same (HD).*

*Dave asked if Bob Cleaves and BD Solar had contractually made the requirements part of the contract. He said that he works for the same company as Bob. Obligations are generally passed on to the contractor. A number of items on the matrix have been delivered. Dave asked if the deed covenants had been delivered to the town (item #1 on the matrix). Mr. Good said that it has been recorded at the registry of deeds, but he is not sure if it has been delivered to the town. He will get this done this week. Dave said this is late and the water testing was supposed to be done before construction began.*

*Billy said that he had provided additional items on August 28<sup>th</sup> (in addition to the matrix Dave had provided).*

*Mr. Good asked about the color preference for the privacy screen. Planning Board all prefer dark green. The screen is to be installed along Route 2 and the Smith Road.*

*Trees are coming soon (288)—to be installed the end of October.*

*Diane will send the matrix that Dave had created and Billy's additions along with a list of abutters to Mr. Good.*

*More discussion on well testing: Billy asked that CES notify the Planning Board about which landowner's wells are to be tested. Mr. Good has the list of abutters. Dan Ready hadn't been approached.*

*Dave directed a statement to Selectman Bates – all follow-up should be done by the CEO (with the applicant).*

*Matrix and Bill's additions (Attachments 2 & 3)*

- Hometown Healthcare – Map 5, Lot 73 & 74 – Amended Subdivision Application  
*Open items (as per May 11<sup>th</sup> Planning Board Meeting Minutes) – Lead by Billy with Chairman Beem’s approval.*

*Billy noted that the applicant had not provided the correct number of documents within the 14-day period prior to the meeting (as required). One copy received on 8/31 and the remainder on 9/3. Motion that the submittals be accepted made by Billy and seconded by Dave. No discussion. All in favor.*

*Mr. Emery’s opening statement:*

*He believes that they are substantially complete and wants to be sure (as they go through the checklist items) that there is not confusion between completeness and final approval. The DEP permit has been filed and they are anticipating getting approval soon. MDOT permit has been filed and public hearing held. The Traffic Movement Permit has been received and they have followed up with conditions. An email recently received—they were satisfied with the conditional questions in respect as to how they are dealing with the slope at the driveway at Tractor Supply Drive.*

*Performance Guarantee: Draft Irrevocable Letter of Credit provided—letter of credit has been approved by the applicant and filed and a dollar amount is in the account.*

*Lot owners association: provided draft language—not final language. He anticipates that the final language will be a result of the Planning Board and Attorneys coming to a final agreement.*

*Line items submitted by the applicant August 31<sup>st</sup> (attachment 4)*

- 8. Add other property line to plat plan (already done). Complete.*
- 24. Billy would consider it closed and changed to #50.*

*Dave had two questions:*

- 1. Are they on the same schedule? Tom said that the dates no longer apply. The goal is to start as soon as possible.*
- 2. When is the connector road to be built? Irrevocable Letter of Credit has an expiration date. This may be adjusted. Dave said that he would not consider this item closed. He suggested shifting the expiration date by four months.*

*Billy suggested that the applicant provide an updated construction schedule. Applicant agreed to do this.*

- 25. DEP Site Location of the Development is still coming. Additional tests were needed and were performed and sent to DEP. Mr. Emery thinks that the permit should be received soon. Still in progress.*
- 27. Applicant has provided the document for performance guarantee in the form of an irrevocable letter of credit. Dave said that he would like the town’s lawyer to review the letter of credit for compliance. Billy said that it has been provided—will address compliance later.*
- 32. Long term maintenance agreement (Lot Owners Association) – draft copy provided—completed. Dave said that it is not executed, so when discussing under compliance, it will be an unexecuted document. Billy said that this will be a condition of final approval (lot owner’s agreement is put in place.) Dave asked how long the applicant will attempt to get the other three parties to sign before going to plan B? Billy suggested that they wait for that issue—there will be time to address at the compliance phase. No objections to calling this item complete.*

50. (New item) Refers to an unsafe intersections (Tractor Supply Drive and Fletcher Drive). On C00-1 (latest copy) applicant needs to add back in the detail of the removal of the existing driveway apron. Also change the solid yellow line at Tractor Supply to a double line and stop bar changed from 12" to 24" wide (on same sheet). Item 4 - overhead illumination is to be provided at Fletcher Drive. There is a purchase order for that. Need confirmation that this will meet the requirements of the Traffic Movement Permit. Item 5 - existing overhead illumination at Tractor Supply - provide documentation that this complies with the Traffic Movement Permit that was issued for Tractor Supply on 1/6/18. Item 6 - Fletcher Drive is to have a double line and a center line and a 24" stop bar.
52. Reference to C20-1—has been provided. Two changes: same as mentioned on Tractor Supply (centerline and stop bar). Revise C20-1.
53. C30-1 – Revised as requested by MDOT for Traffic Movement Permit for the cross section at the culvert extension—in progress. Change slope is already done. Traffic Movement Permit states that the applicant must obtain approval of the entrance plans through MDOT Regional Engineer and Region Traffic Engineer. Documentation is required that they have complied. C50-1 detail A1. – remove “geotextile where required” and replace with “geotextile required under gravel base”.

Billy suggested that there are open issues that will have to be completed before a decision is made by the Planning Board.

Billy made a motion to accept the amended subdivision application of Hometown Health Center as complete with the following conditions (to be completed prior to final decision by the Planning Board) with the applicant meeting all requirements of the Subdivision Ordinance Regulations.

24. provide updated construction schedule
25. still in progress
50. Items open:
  - 1 - C00-1 add back detail for removal of the existing driveway apron as indicated on the previous document dated 4/27/21.
  - 2 - Change the striping on C00-1 as described in checklist number 52 and 8.
  - 4 - Overhead illumination to be provided at Fletcher Drive to meet the requirements as listed in the Traffic Movement Permit dated 04/28/21 and the applicant to provide verification of compliance.
  - 5 - Applicant to confirm overhead illumination for Tractor Supply Drive to comply with requirements of the Traffic Movement Permit dated 1/16/18.
  - 6 - Fletcher Drive striping to have 24" striping and a 24" stop bar.
52. Revise C20-1 dated 6/8/21 to show Tractor Supply entrance double line striping and a 24" stop bar.
53. C30-1 provided detail of the cross section of Tractor Supply entrance culvert extension. Applicant to provide document approval of entrance plans from MDOT Regional Engineer and Regional Traffic Engineer as described in the Traffic Movement Permit dated 4/28/21.
- A1/C50-1 – Revise to require geotextile underneath the gravel base.

Dave seconded the motion to accept the application as complete. All in favor.

Public Hearing scheduled for the next meeting on 9/28. This will be the first item on the agenda. Motion made –seconded by Corey. All in favor.

**Begin the compliance review (checklist attached) Attachment 5:**

- 1 – 15. Subdivision Plat Requirements submitted and compliant.
16. Not applicable because they will be using the Newport Water District
17. Not applicable because they will be using the Newport Sanitary District
18. provided and compliant
19. compliant
20. compliant
21. submitted and compliant
22. compliant
23. compliant
24. open for a revised construction schedule and performance guarantee.
25. open
26. not applicable
27. Irrevocable Letter of Credit. Per Billy - according to our subdivision regulations, it is up to the Planning Board to approve. Requirement to have the town attorney look at the Irrevocable Letter of Credit proposed by the applicant. Dave said that the Select Board needs to sign off for monetary approval. Mr. Emery will have the final copy prepared before the town sends to the town lawyer. .
32. Long Term Maintenance – Billy said that legal counsel is needed for the suggested document. Dave asked when the document would be given to the other lot owners. Mike Divine (counsel for the applicant) said that Tractor Supply has it, but the other two are difficult to track down. Process had been started and he is hoping to talk to them by next week. He said if lot owner's agreement doesn't work—they will have to work through what to do next. The easements have been successful so far.
34. Escrow fees – requested \$2,500 has been provided. Dave said that when 75% is expended they request that it be replenished. He said that this may slow things down since most items requiring legal counsel happen in this first phase. Second phase 1/4 % of \$25,000,000 is \$60,000. He asked if they should request more in the first phase. Robin said she would have to go to her board for more funds. Billy suggested that the applicant increased the escrow account to \$10,000. Dave said in the next step is \$60,000 and he would recommend that the \$10,000 be taken off the \$60,000 in the next phase. Funds not use will be reimbursed to the applicant.

**Review Criteria**

section 1 – provided by the applicant

section 2 – water provided by Newport Water District

section 3 - water provided by Newport Water District - Maurice asked if discussion had taken place with Newport. Mr. Emery said that they have talked to them.

section 4 – Adequate design on the plan

section 5 – open – specifically #50

51. addressed in #50

52. received

53. Requirement of geotextile fabric. Otherwise compliant

54. done

55. not applicable

56. not applicable

57. not applicable

58. Taken care of in Traffic Movement Permit.



*Discussion on the inspection requirements for the road. The current ordinance, under inspection requirement, states “the subdivider shall notify the CEO in writing prior to commencement of construction...and shall be responsible for scheduling an inspection”. Dave said that the CEO does not have time nor training. He will use the escrow account and delegate this. Billy suggests that this is not necessary since applicant has independent testing done by SW Cole. He said the CEO should get the reports. Maurice asked if the ordinance be interpreted as meaning that the CEO look at the reports (from SW Cole) and confirm them. Dave said that other roads in the area were not holding up and he suspects the testing did not happen on first three buildings (no records found). Billy said the obligation will be met by the applicant by providing reports of the inspection and the CEO will keep records. Dave said that, according to the ordinance, the board has no discretion on this—it says it “shall” happen. Mike Devine suggested that the CEO designate SW Cole (an independent party) to do the inspection. Billy suggests that to ensure that the applicant complies with Article 6, Section 4a – the designated agent for the CEO will be an independent third party hire by the applicant for the testing. Motion made by Billy that Art. 6 Section 4, Part B statement: “CEO is responsible for conducting testing...” will be satisfied by the independent third party hired by the applicant for the testing (with reports to be given to the CEO). Motion seconded by Maurice. Billy and Maurice in favor. Motion did not pass.*

*Dave said that he will work with Travis and there will be a minimal amount of inspection at a key time.*

*Section 6 – compliant*

*Section 7 – compliant*

*Section 8 – compliant*

*Section 9 – conditions on number 53 pertain to this section.*

*Section 10 – compliant*

*Section 11 – Not applicable*

*Section 12 – compliant*

*Section 13 – email the 100 year flood designation does not impact the building site.*

*Section 14 – fresh water wetlands identified on the plan*

*Section 14A – identified on the plans*

*Section 15 – included on the plans*

*Section 16 – demonstrated with plans provided*

*Section 17 – not applicable*

*Section 18 - not applicable*

*Section 19- not applicable*

*Section 20 - Title 30-A, section 4404 - amended criteria shall automatically be included for considering by the Planning Board. Open issue – do research for the meaning.*

*Fire Protection – Documentation from the Fire Chief received.*

### **COMPLIANCE OPEN ITEMS**

- 24. *Performance guarantee – applicant will do a final copy before we send to counsel. Planning Board member(s) will meet with the Select Board on 9/22 to discuss use of town attorney.*
- 32. *Long term maintenance requirement – Planning Board to request approval of town attorney to review applicant submission.*
- 20. *Review section 20 for applicability to compliance.*

*Dave asked Bill if he would type something up on the things they are asking the Selectmen for approval.*

- a. *Additional funds*
- b. *Engage the lawyer to look at the irrevocable letter of credit*
- c. *Have the lawyer look at the lot owners association agreement*
- d. *They are leaning towards having Travis (CEO) fulfill the road inspection requirement and hire an engineer. He wants to make sure the Select Board approve.*

*Motion made by Billy that the compliance review open items previously discussed be approved. Seconded by Maurice. All in favor. Motion passed.*

### **V. Announcements - none**

### **VI. Reports**

- *Secretary's Report (08/24/2021) – Motion made by Gary to accept as written—seconded by Corey. All in favor.*

### **VII. Old Business**

- *Solar Farm Deliverables Matrix – update by Zach Good, Assistant Project Manager - discussed earlier*
- *List of businesses in town – Diane explained that applications for US Cellular and the Chiropractor located at Chris Cookson's building had been received and will be on the next agenda. Travis will follow up with Trundy.*

### **VIII. New Business**

- *Ordinance Change- section 3-7 – Billy is keeping a list of possible changes for a future workshop. Dave suggested that it be summed up in November and run past the Select board for adding to the Town Meeting Warrant.*
- *Town of Palmyra Land Use Applications – Diane explained that some applications are not in pdf and she cannot make changes or get a clean copy. Subdivision Applications distributed for review. Other proposed revised applications will be provided at future meetings.*

*Suggestion by Billy for a future agenda item: CEO – what is done/not done on following up on conditions.*

### **IX. Adjournment – 8:50 p.m. – motion made by Gary to adjourn—seconded by Dave. All in favor.**

*Respectfully Submitted  
Diane White*

NEXT MEETING  
09/28/2021