



MINUTES
July 9, 2024

6:00 p.m.
Historic Town Hall, 130 Main Street

Present: James Killion, Chair; Christopher Neeven, Vice-Chair; Erik Van Buskirk; Chase Terrio; Mary Foley; and Kevin Kirrane

Also Present: Ralph Vitacco, Director of Planning & Economic Development; Leanne Drake, Town Planner; Brendan Brides, Building Commissioner; Sam Jensen, Assistant Town Engineer; and Maureen McCabe, Sr. Administrative Assistant

The Pledge of Allegiance is recited. Mr. Killion opens the meeting with the Opening Statement.

Board Reorganization

- Mr. Terrio nominates Mr. Neeven for the position of Chair, Mr. Van Buskirk seconds. Approved 6-0-0.
- Mr. Killion nominates Mr. Terrio for the position of Vice Chair, Ms. Foley seconds. Approved 6-0-0

Mr. Vitacco asks the board to sign the signature sheet.

Mr. Neeven assumes the role of Chair.

Approval of Minutes

- Mr. Terrio motions to approve the minutes of June 25, 2024, as written. Mr. Killion seconds. The vote is unanimous.

Old Business

- #24-14: 15 Howland Lane - Cullin

Mr. Neeven explains that the public hearing is still open. Mr. Van Buskirk was not at the last meeting but has listened to the recording and has signed an affidavit to this effect. Mr. Neeven reads the following into the record:

- To the Board of Appeals from Kailey Cullin, applicant, re: Revised Narrative dated June 27, 2024
- To Maureen McCabe from Brendan Brides Building Commissioner re: Request for Comment 15 Howland Lane dated June 14, 2024

There are no comments from the Board. Mr. Neeven opens the matter up to the public. The following people spoke:

Rick Walters, 19 Howland Lane

Mr. Walters explains his property abuts Ms. Cullin's by about 200 feet. His concern is noise pollution. In her letter, she indicates that the amount of adult dogs will be kept at a reasonable and responsible amount. Mr. Walter's would like that to be specific. He asks if the bylaws allow her to build a structure, which could be considered a kennel? From his understanding of the bylaw, noise pollution within 200 feet of a boundary line is not permitted.

A member of the audience (name not provided) asks if the audio problem can be fixed. Mr. Vitacco states that they are working on it.

Mr. Walters explains that on the meeting on 25 June, she mentioned that she would be potentially caring for other dogs at her home but I believe she has agreed not to do that. She also mentioned boarding dogs for family and friends overnight, which she also agreed she would not do.

Gabrielle Belfit, 16 Howland Lane

Ms. Belfit explains that she wrote a letter and she believes Leanne forwarded it on to you but she would like to read the letter into the record. Ms. Belfit reads the letter.

There is no further comment from the Board or from the public. Mr. Killion motions to close the Public Hearing and take it under advisement, Mr. Terrio seconds. The vote passes 5-0-0. Mr. Neeven states that the board will deliberate on this matter on July 23, 2024.

New Business

- #24-15: Village Green – 76 Route 130 & 55 Pimlico Pond Road – Comprehensive Permit – NSG VILLAGE GREEN – 1, LLC

Mr. Van Buskirk recuses himself and exits the building. Mr. Kirrane reminds the board that he had recused himself from the earlier matter. Mr. Neeven reads the public hearing notice into the record. Mr. Killion motions to open the public hearing, Mr. Terrio seconds. Approved 5-0-0. Mr. Neeven reads the following comment memos into the record:

- Memo to James Killion, Chair, from Jennifer Reisig, Chair, re: Request for Comment – Petition #24-15 Village Green Comprehensive Permit, dated July 3, 2024
- Email to Maureen McCabe from Brendan Brides, Building Commissioner re: Request for Comment 76 Route 130 Village Green Comprehensive Permit, dated July 5, 2024
- Memo to James Killion, Chair, from David J. DeConto, Department of Natural Resources re: 76 Route 130- Village green Comprehensive Permit, dated June 18, 2024
- Memo to James Killion, Chair, from Paul S. Tilton and Samuel J. P. Jensen, Office of the Town Engineer re: Petition 24-15 Comprehensive Permit Application

of NSG Village Green-1 LLC, 76 Route 130 & 55 Pimlico Pond Road, dated July 2, 2024

- Letter to Board of Appeals from Daniel H. Mahoney, Superintendent, Sandwich Water District re: Application for Comprehensive Permit Village Green 76 Rte. 130, Forestdale MA 02664, dated June 25, 2024

Mr. Neeven explains that this is a process not an event. Tonight we will open the permit; it will not be closed this evening. We will take the presentation by the applicant, questions from the board and then it will be opened up to the public. When you have a question, come up and sign in. A reminder that everyone should be concise, polite and not overly repetitive. Mr. Vitacco introduces Amy Kwesell, Town Counsel and Judi Barrett, Barrett Planning Group. He further explains that the Planning Office received a grant from MHP to hire technical assistance and that is Judi Barrett.

Mr. Neeven invites the applicant to present their application. Attorney Fitch introduces himself and the development team. He sets the record straight by saying that neither Mr. Stinson nor Mr. Ruhan were ever involved in the prior failed Forestdale Village LLC project. Atty. Fitch elaborates on this point. Atty. Fitch details the proposal as submitted. He explains that Sandwich is lacking in affordable housing and wastewater treatment infrastructure and our carbon footprint is way too large. We must do more and without delay. Atty. Fitch recites a sentence from *Housing Cape Cod* by the Cape Cod Commission dated May 2024. Atty. Fitch references the town's *Housing Production Plan* and the findings that were made in that plan. He then moves on to discuss the *Local Comprehensive Plan* and the section on Housing. He explains that this mirrors the *Housing Production Plan* and details the plan's findings and action items. Atty. Fitch references the staff report's concluding message that the town will work cooperatively with the developers. Atty. Fitch moves on to the environmental issues and states that this has been studied. A paragraph from the Cape Cod Commissions' *Climate Action Plan* is recited. Atty. Fitch discusses the State's climate goals and the town's Green Communities program. Atty. Fitch wraps up by saying that he has just provided the context for how this project has been crafted and how it aligns with the town's plans and the state's plans. Atty. Fitch introduces Mr. Cleary, the applicant's Director of Development.

Mr. Cleary explains that he has a couple of display boards that were not part of the filing. He has them on memory stick. Ms. Drake tries to load the files from the memory stick to the computer but is unable to do so. Mr. Cleary discusses the site plan and the history of the zoning at this location. Mr. Cleary explains that they are proposing 144 units of rental housing. He explains that there is a driveway entrance with stormwater and drainage systems. There is a stormwater plan that the Engineering Department has to review. During our 10-year planning process, we focused on an environmentally friendly project. We looked at the 2050 goals of decarbonization for the state of Mass. Mr. Cleary talks about state goals and stretch code goals. One of the things that was factored in was how many parking spaces we need and then we need 20% EV parking spaces. They were designed in and around the agricultural building, which is supporting the entire system, which has been designed around the energy-system micro-grid and wastewater. We are in an impaired embayment; you really have to focus on clean water and [inaudible]. Mr. Cleary talks about executive orders from the President. The project needs to be integrated and driven around greenhouse gas reduction. The piece that pulls this altogether is onsite generation and storage. There are three things: buildings, transportation and renewable energy power. We have also focused on renewable water

systems. We are here to talk about the 40A Section 3 Paragraph 9 side of the commonwealth's law of energy systems. Mr. Cleary states that is a general overview and a good point to stop and ask for questions.

Mr. Neeven opens the matter up to the board for questions. Mr. Killion asks if the solar field will provide all of the energy needs of the development. Mr. Cleary states that is the plan. It's a balancing of the load and generation. That has been sized to handle what is on site under the micro-grid designs. Mr. Killion notes that there is also energy storage on site. Do they anticipate providing any of that back to the grid? Mr. Cleary states that it should stay on site but the permit process is that it does tie in to the central grid. He elaborates on the permitting process. Mr. Killion states that there will be an interconnect and one of the waivers you have requested is for the documents related to that interconnect. Mr. Cleary states that it is more a waiver from zoning. This does not fit into the zoning booklet. He discusses how the wastewater also does not fit into the zoning. Mr. Kirrane asks if they have designed a sewage treatment plant. Mr. Cleary states that they have. Mr. Kirrane asks if they have applied to the state for the groundwater discharge permit at this point. Mr. Cleary states that they have not. Mr. Kirrane explains that the town has mentioned they have entered into a cooperative agreement with neighboring towns that requires a no net nitrogen standard. Has the plant that you designed met that no net nitrogen standard. Mr. Cleary states that is a two part question. No net zero and no nitrogen is the goal for what we have designed and our equipment will handle that. We will start with water reuse. We have been working on this for years with MassDEP but just have not submitted the application yet because we thought we might be a part of the town's plan with sewer. We are at a point that we could handle all of ours on site or hook up with the town at the base. During this process, we will get more clarity to that. Mr. Cleary displays a paper graphic and apologizes that it is not within the provided materials. Mr. Cleary outlines the developers plan for wastewater; the solution is dilution. Mr. Cleary explains that the equipment used for nitrogen removal comes out of a company in Canada. When they are done with the wastewater, it is then ready for reuse. The first thing we will file with MassDEP is a reclamation water project and then whatever our discharge is going to be. Mr. Kirrane asks if the recycled water will be used for the housing. Mr. Cleary states no, not in the housing. It will be used for landscaping and the farming/agriculture use. Mr. Kirrane states that the bedroom count is what drives the nitrogen. Mr. Cleary explains that the system will be designed for 20,000 gpd. Mr. Kirrane asks if it is a denitrification system. Mr. Cleary states that is all within the proposed system and provides an overview of the equipment. Mr. Kirrane explains that they have also been advised that the Town of Mashpee may have wells down gradient of this project. Mr. Cleary states that this report [points to diagram] speaks to all of that and says you can discharge 1.6 million gallons per day; I think Ralph has seen that report. The equipment we will be using will be studied by the Mass Alternative Septic System Testing Center referred by MassDEP. Mr. Kirrane asks if their engineering firm will confirm after they have their permit and their discharge permit approved by the Commonwealth certify that it meets the standards that have to be met. Mr. Cleary agrees and states it will also show an ongoing monitoring and measuring daily if not monthly. These are key questions. Mr. Kirrane asks where exactly on the plans is the sewage treatment plant located. Mr. Cleary points to a 10,000-s.f. building. Ultimately, this will house the wastewater facility and agriculture component of this is all running through that building. Mr. Kirrane asks if the leach fields are under the parking lots. Mr. Kirrane points to the backside of the larger building up front. Mr. Cleary points out the leach fields and the stormwater drainage on the proposed plan. Mr. Cleary states that it is all a work in progress as they are not happy with the layout. Mr. Kirrane

discusses the impact it would have on abutting properties. It looks like most of the development, which is the housing, is on a 7+ acre lot and you have 33 acres to work with out there. He is concerned about buffers. Mr. Cleary explains how they came to the design that is proposed. Mr. Kirrane notes that you have to create a limited dividend company to own and manage the project. Does the limited dividend you have formed own the land out back also; solar and the rest of the accessory structures. Mr. Cleary states that land is owned by Ruhan and Stinson, the R2 area, and the BL2 area is owned by Route 130 Land Development, which is owned by Ruhan and Stinson. We really see the infrastructure side of this being a non-profit, think condo association. Ultimately, it's probably going to be held in two entities at the end of the day but it could be held in one. Mr. Kirrane states that is something that will have to be clarified with our counsel. Mr. Cleary states that it has been done before in Mashpee. A discussion ensues related to this.

Mr. Terrio asks Mr. Cleary to speak to the agricultural building; it appears that its actual use is for sewage treatment. Mr. Cleary states that they have already permitted that building with the Building Dept. It is going to be used for the agricultural components which are part of the farming of the landscape plan, solar voltaic systems are on top of basically blueberries and various types of farming. Mr. Terrio discusses the outdoor amenities listed on the application including agriculture within the EV area yet it appears to be fully fenced off and not accessible. Mr. Cleary states that the 25 acres are fenced off for protection that only management would have access. Mr. Terrio asks if there are any other amenities. Mr. Cleary states that there are the typical amenities that you would find in a neighborhood. The area down by the pond will be kept in its natural state, which is walking trails right now. It's about 12 acres out of the 65 acres. Mr. Killion asks if it will remain as open space in perpetuity or just for the foreseeable future. Mr. Cleary responds that it is for the foreseeable future. Mr. Terrio appreciates the comprehensive review with balancing electric vehicles and the demand. There's a lot of moving pieces. He explains that he's stuck on the EV acreage. It appears that all of the parking spots are located at the sewage treatment plant and are inaccessible. A conversation ensues as to where the spots are located and why. Mr. Cleary explains that the spots are accessible to residents and will verify where the gate is. Mr. Terrio asks about the number of parking spaces. He was having a difficult time seeing total parking spaces. The plan says 442. Mr. Cleary says he isn't sure where it says that in there but there are 288 parking spaces which is two per. It says in Brendan's letter that we have met the standard and now we are trying to meet the stretch code where we need 20 EV parking spaces. Mr. Terrio thinks we need to revisit what is on the plan as there are only 215 shown. Mr. Cleary agrees and thanks him for his balancing comment. He further discusses how this all has to be balanced with greenhouse gases. There's at least 4 infrastructures that you are now juggling. Mr. Terrio asks about the roadway stubs to the adjacent parcel. There's a desire to better understand traffic impact. Is it reasonable to anticipate traffic load as part of this traffic impact study. Mr. Cleary talks about the history of traffic at this property. It was reviewed but not in 2024 but this board approved the original 148-unit housing development with a traffic study that was November 11, 2009. It is obsolete. The next one was a January 9, 2019 study for a proposed subdivision. Next, when we were planning to do the 240 units, we studied that entrance at Pimlico Pond in May 2020. We currently have Randy Hart of VHB on this traffic study and will do study flows in July and August. Mr. Neeven asks if that is in process. Mr. Cleary states that it is but he hasn't put out his little sticks yet but what he has been studying is the conclusions of all three of those studies. Mr. Cleary speaks to the deficiencies of surrounding intersections. Mr. Kirrane states that realistically you wouldn't be asking us

to make a decision until that is all complete. Mr. Cleary states yes. Mr. Terrio asks if there is consideration given to pedestrian flow. Mr. Cleary states that somewhere buried in all of this shows that those curb cuts were designed around this. Ted Brovitz planned for this area. Mr. Cleary is very excited that Judi has joined the conversation on planning. It's a continuation of what Ted did years ago as part of the comprehensive planning of what might go on this parcel of land. Mr. Kirrane asks about the existing paths that runs through this property. Mr. Cleary explains that they are focused on opening up paths. We are not planning to shut the existing paths down. Atty. Fitch states that he has done title research and there are no interests. Lawyers have their way of smoking out people who believe they have claim to use paths that really have no rights. Mr. Kirrane asks if there was any thought to putting some of the solar above the parking. Mr. Cleary explains that when you file a connection to Eversource you have to pick one area and stick with it. A discussion ensues.

Mr. Neeven asks if there are any questions from staff. Mr. Brides asks about the agricultural building. He states that a building permit was approved for the building as an agricultural use would be by-right under Chapter 40A but my understanding is that it will be used for processing blueberries. Mr. Cleary states that it will be part of the larger agriculture systems that's on the 45 acres. Mr. Brides asks what the other parts are. The building will be used for the water re-use systems; the water is being used on your landscaping and farming. Farming being your flowers and your blueberries and then the excess is discharged. Mr. Brides explains that there is a pretty firm definition of agricultural building in the building code. Mr. Brides reads the definition aloud. If this were not an agricultural building, the applicant would have to come back for approval. Mr. Cleary states that in the 40A section 3 section the canopy will handle the agriculture and the water that is being used in the system are all part of 40A Section 3. The permit was really just a shell of the steel and the roof and now as we move to the actual end user in that building we will show you more. The main part of the building is the agriculture, about a quarter is the wastewater and a quarter is the energy micro-grid system and the data that runs through the storage. Mr. Neeven asks Brendan if what he is hearing is that he may need a new building permit based upon the use that is actually going to be used in the building. Mr. Brides states that it has been approved as an agricultural building. If you do something different you have to come back and make an amendment to your permit. Mr. Cleary agrees and discusses how all of this works. Mr. Killion asks Brendan if an applicant had come in with all the uses they are intending, would that have been allowed? Mr. Brides states that other than an agricultural building he believes they would need a special permit for the other uses. Mr. Cleary states that it was designed to be a 10,000-s.f. building because that would be a building that stays under the Cape Cod Commission threshold. Mr. Cleary believes what we are talking about is that there is not enough clarity of the building for its occupancy permit yet. The uses have not be laid out as to what are the tenants inside the building. How do I beat my way around the Cape Cod Commission and how do I beat my way around the zoning booklet; which is what most developments try to do. A discussion ensues.

Mr. Neeven asks Sam if he would like to comment from the engineering's office standpoint. Mr. Jensen explains that the department has the materials under review and will have additional comments and questions as that review continues. Mr. Jensen has one question tonight. He asks for clarification as to whether the wastewater treatment system has been designed. Mr. Cleary states that the equipment has been laid out and this layout has been shared with DEP and Mass Alternative Septic System Test Center. We are in the process of putting together to study what will ultimately be the permit. Mr.

Cleary explains that they need a reclaimed water permit and then a ground water discharge permit. He states that it is a balancing act between reclaim and discharge. Mr. Jensen explains that one of the reasons he asks is because the plan set that has been submitted appears to show a wastewater collection system but then doesn't include footprints of treatment and disposal. Will those locations be shared with us? Mr. Cleary explains that those locations are in and around the 10,000-s.f. building. Things might change as we look at the equipment and as we design the size of the tanks and the locations. Mr. Cleary discusses how this is a State permit and he needs to get guidance from them and then their engineers can bring back the designs to preserve the health, safety and welfare in that area as it rolls to your review. Mr. Jensen explains that part of his review is looking at space requirements and for the other infrastructure on the site. Mr. Cleary interrupts and states again it will fit in that general area; it can be in a building or outside. Is the equipment going to work the way MassDEP and EPA wants it to work. There will be a Federal and State permit done. Mr. Jensen asks if at that point will those locations then be shared with us. Mr. Cleary states that is something that comes to the occupancy permit. Until you have a building, you don't need a wastewater system and if along the way there's a connection to the base we will sign up for that. There's still juggling. He explains that he doesn't have a full answer because it's a work in progress but they can handle what they are doing and we can locate in that general area. When you put in one of these systems, it's studied but everyone and I'm not trying to skirt around and say you don't have the right to study it, you will be studying it but we got to get through the bear like we did in 2018/19. Over the next 6 months we will have better answers for that.

Mr. Neeven thanks Mr. Cleary and opens the matter up to the public for comment. He explains that they will take as much as they can but there will be more public meetings and plenty of time for people to comment. The following people spoke:

Joe Silva, 30 Pierre Vernier Drive

Mr. Silva explains that he moved here because this is a town. He came from Cambridge; I know what a city is. This will turn into a mini city. We have rules and bylaws to keep it the way it is. Now because of 40B, this company can come in and do whatever they want and it is sad. I blame the State. Massachusetts is the only state to allow this. It is sad.

Ethan Chaffee

He asks for a point of clarification. Was it indicated that there would be a fence blocking access to Peters Pond. Mr. Cleary states that is not correct; there is a fence around the solar array. Mr. Chaffee asks if all 144 units and its occupants have access to Peters Pond. Is this being marketed as a recreational boating community? Mr. Cleary states that it is not. Mr. Chaffee states that his concern is that there will be kids there and ultimately they will make their way down to the pond and it is folly. The attractive nuisance in this case is that pond. It will ruin that pond. It is incumbent on this board to make certain that this will not be advertised as a boating community. This will turn into that. The pond will be overused. It's incumbent upon this board to urge/force these developers that this becomes a community that does not have access to that pond. They could put up a fence. I urge you please protect us.

Jonathan Finn, 3 Chipman Road

Mr. Finn explains that he thinks this is the beginning of a very well thought out plan. This will evolve and there is a ton of work to be done. We desperately need housing in this town and we desperately need apartments. Recently the Globe reported that for somebody to purchase a starter home the amount of savings required now is 40 years' worth. Where do all these people go? We definitely need apartments.

Susan Dangle, Mashpee Resident

Ms. Dangle introduces herself as the president of Mashpee Wakeby Pond Alliance. She would like to discuss what hasn't been brought up tonight. In this picture, there are 2 ponds, outside the picture is Cape's second largest pond at 750 acres. That pond is in the Popponesset watershed. In the state of the water report, it is bright red. In our pond study, we see that the bottom layer of Mashpee Wakeby is dead. There's no oxygen. We have had our fourth large scale cyanobacteria bloom in 4 years. And I do not understand how this property is not part of the sole source aquifer that is Cape Cod. I urge you to make sure that is true. All of the excess runoff will go into Pimlico Pond. The water will continue on to Mashpee Wakeby. Ms. Dangle talks about Sandwich's and Mashpee's wastewater planning and explains that this area is 50+ years out. I remain concerned. He brought up a system that is being tested at DEP and MassTech. Has it been approved? Or is it just in the testing system? That usually takes 3 years and significant amount of testing participants.

Chris Dennis, 7 Evsun Drive

Ms. Dennis introduces herself as the president of Friends of Peter's Pond. She thanks the board for taking public comment and states that she understands the need for affordable housing and for the town to raise its number. Her mission is pond health for all ponds. Ms. Dennis outlines her concerns. The project description in the application is vastly differently than the description in the Project Eligibility Letter. She details what was proposed in the PEL and what is now proposed. Back in 2022, the Town wrote a letter to MassHousing and shared it with the developer, sharing their concerns with the 144 units on the 7.5 acres. This was a well-written detailed response. The town has the following concerns: wastewater, impacts to the environment including ponds, wells and water bodies down gradient from this project. The town talked about the Inter-Municipal Agreement to have a zero nitrogen impact. The design of the buildings was brought up and how it was incongruous with the neighborhood and, of course, traffic. The town sought a traffic study and mentioned that Route 130 is scenic highway. In the MassHousing approval letter, they acknowledge the town's concerns and strongly suggested the developer work with the town on these issues. Fast forward to today and this permit does not address these concerns. I could not find a wastewater treatment plant on the plans, there was a note that there would be a future treatment system by "others" but I don't know what that means. There was no mention of the inter-municipal agreement, the design concept didn't change much; still three-story urban buildings. Traffic was also not addressed. In addition, the 442 parking spaces on drawing plan c3.1 there is a parking chart; the math does not add up. They also have garage spaces on the plan that are inconsistent with the chart. Parking space is pavement space, which is stormwater and runoff. This is serious we need to know how much asphalt there is going to be and how they plan to mitigate that. Another discrepancy, on the cover the Forestdale zip code is wrong. Ms. Dennis has a list of other concerns that she is happy

to share with the Zoning Board. She states that the solar field should not be in this application. They should be working with the town to address these issues that the town brought up 2 years ago. They need to prove how they will protect the environment. Ms. Dennis suggests that the ZBA reject this application. Ms. Dennis would like to extend to Dennis Murphy who is representing Friends of Peters Pond to follow up on her comments.

Dennis Murphy, Attorney from Hill Law

Atty. Murphy explains that he is an environmental attorney. He thinks that the applicant team should be commended for proposing something that they intend to be environmentally friendly but there are some legal comments to be made on behalf of the Peter's Pond group. First thing, is the difference between the comprehensive permit application and the project eligibility letter. Atty. Murphy argues that the Zoning Board can't even hear this application. The second part is that this is a development of regional impact. There is case law on this from 20-years ago out of Oak Bluffs. It was the MVC not the CCC and, in a nutshell, eventually a judge decided that the project had to go to the MVC first. There is no material difference between the CCC and the MVC statute with regard to 40B. Atty. Murphy elaborates on this point. He lists three reasons as to why this project needs Cape Cod Commission oversight. It really does have a regional impact; he discusses the inter-municipal agreement. The second point is that the IMA is based on science done by the Cape Cod Commission. Mr. Neeven states just to be aware; the Cape Cod Commission is reviewing this project. Atty. Murphy thanks him but thinks they are talking about different things. He believes the CCC will offer informal comments from its planner but what he wants is something different. A formal Development of Regional Impact Review. Atty. Murphy states that twice the developer talked about Cape Cod Commissions plans; one about housing and one about climate. Who better than the Commission itself to review the application and compare it to its own plans. The other reason that this is of regional impact is because it's not straight housing. Atty. Murphy wants to help these guys because they are doing what they are supposed to be doing; thinking about carbon neutrality and net zero. But he doesn't believe the Zoning Board can issue waivers for a solar field under Chapter 40B. He elaborates on this. The last point is that there is a segmentation problem. You can't show part of your project and not tell what you are going to do on the rest of the land. This land is all owned and controlled by the same people under different legal entities. It was said tonight that they are expecting 20,000 gpd but then can go up to 40,000 gpd but in the application it references 100,000 gpd. Those are all segmentation issues; if there are other development plans on contiguous land in common ownership, somebody has to look at that holistically. Atty. Murphy is fearful that things have gotten a little ahead of where they should be. He thanks the board for their time.

Amy Kwezell, Town Counsel asks to address the board to respond to Atty. Murphy's comments. She agrees with most of what he said. She explains that the PEL does not match the project that was described, so we will need some kind of confirmation from MassHousing that the project they are describing is part of this letter. The other issue is the solar. There is a mention of solar in the 2022 PEL but this is a much greater capacity. They are also asking for waivers for this solar field; this solar field has to be dedicated to this project. They cannot be selling this power back to the grid or anyone else. Atty. Murphy is correct there is no precedent. Atty. Kwezell states that the only thing she doesn't agree with Atty. Murphy on is the Cape Cod Commission. She cites case law and states that the CCC is considered a local board. The current Cape Cod

Commission review is an informal review, which is great. The last point is this whole agricultural aspect that is hard to understand. She understands that when the Building Commissioner is presented with a plan for an agricultural building that is what he is presented with and he gave the building permit for that. Now that we have added more uses or possible changes in use, she agrees with the Building Commissioner that now things might change. Atty. Kwesell's cites Chapter 40A section 3 and states that agriculture has to be the primary purpose. Clearly, by adding all of these other uses it's not clear that this is the primary use of the property. That segue ways into her last concern. We really need to nail down what the property is here. We are only seeing two portions of the property. We are missing two very big portions of a 40B project; the traffic study and wastewater. We have a long way ahead of us.

Mr. Neeven states that it is 8:15 p.m. and asks how many more people wish to speak. He counts three and explains that he will get these in and reminds the public that there will be plenty other opportunities to speak. Ms. Foley states that she has to leave. Mr. Neeven states that he is sorry but one of the board members needs to leave. There will be many more meetings on this and he apologizes but he will have to close the meeting. Audience members shout. Mr. Neeven asks the audience not to yell and explains that if a board member can't be present for something she is involved in then we have to stop the meeting. Two audience members continue to raise their voices from the auditorium. Mr. Neeven asks for a motion to continue. Mr. Killion asks the applicant if they will have materials in time for their first meeting in August. Mr. Fitch nods. Atty. Kwesell asks the board to make a motion to hire a peer reviewer.

Mr. Neeven makes the motion to hire a peer review, Mr. Killion seconds. Approved 5-0-0.

An unknown audience member asks for a point of order; when was this hearing scheduled to stop. Mr. Killion states 8 o'clock. The audience member asks when the commenters were notified that they were running out of time.

Mr. Killion motions that the hearing be continued to August 13, 2024. Mr. Terrio seconds. Approved 5-0-0.

Adjournment

Mr. Killion motions to adjourn. Mr. Terrio seconds. Approved 5-0-0. The meeting adjourns at 8:19 p.m.

Respectfully submitted,

Leanne Drake

Supporting Documents

1. June 25, 2024 Draft Minutes (5 pages)
2. Signatures of the Sandwich Zoning Board of Appeals – July 2024 (1 page)
3. Erik Van Buskirk's Signed Missed Meeting Affidavit re: 15 Howland Lane, dated July 9, 2024 (1 page)

4. Letter To Whom This May Concern from Kailey Cullin, dated June 27, 2024 (3 pages)
5. Unsigned letter to Ms. Drake from Gabrielle and Stephen Belfit, dated July 9, 2024 (1 page)
6. Email to Maureen McCabe from Brendan Brides, Building Commissioner re: Request for Comment: 15 Howland Lane – Special Permit – REVISED, dated June 14, 2024 (1 page)
7. Village Green – 76 Route 130 & 55 Pimlico Pond Road – Comprehensive Permit – Public Hearing Notice (1 page)
8. Village Green – 76 Route 130 & 55 Pimlico Pond Road – Comprehensive Permit application materials (174 pages)
9. Village Green – 76 Route 130 & 55 Pimlico Pond Road – Comprehensive Permit – Stormwater Management Report, dated May 10, 2024 (258 pages)
10. Village Green – 76 Route 130 & 55 Pimlico Pond Road – Comprehensive Permit – entitled Sandwich Green Site Development Plan, Watermain Easement Layout Plan, prepared by Catalyze-Acre PSV, LLC, stamped “Draft for Review”, dated August 2021 (1 drawing)
11. Village Green – 76 Route 130 & 55 Pimlico Pond Road – Comprehensive Permit – (untitled and undated) site plan for Board presentation (1 drawing)
12. Village Green – 76 Route 130 & 55 Pimlico Pond Road – Comprehensive Permit – Groundwater Mounding Calculations, prepared by GeoHydroCycle, Inc., dated July 12, 2021; revised August 16, 2021 (1 graphic)
13. Memo to James Killion, Chair, Board of Appeals from Jennifer Reisig, Chair, Planning Board re: Request for Comment – Petition #24-15 Village Green Comprehensive Permit, dated July 3, 2024 (1 page)
14. Email to Maureen McCabe from Brendan Brides, Building Commissioner re: Request for Comment 76 Route 130 Village Green Comprehensive Permit, dated July 5, 2024 (1 page)
15. Memo to James Killion, Chair, from Paul S. Tilton, Director of Public Works/Town Engineer and Samuel J. P. Jensen, Assistant Town Engineer re: Petition 24-15 Comprehensive Permit Application of NSG Village Green-1 LLC, 76 Route 130 & 55 Pimlico Pond Road, dated July 2, 2024 (2 pages)
16. Memo to James Killion, Chair from David J. DeConto, Director, Department of Natural Resources re: 76 Route 130- Village green Comprehensive Permit, dated June 18, 2024 (2 pages)
17. Letter to Board of Appeals from Daniel H. Mahoney, Superintendent, Sandwich Water Department re: Application for Comprehensive Permit Village Green, 76 Rte. 130, Forestdale Ma 02664, Hearing Date: July 9, 2024, dated June 25, 2024 (1 page)
18. *Housing Cape Cod* by the Cape Cod Commission dated May 2024 (copy not provided to the Board)
19. Memo to Zoning Board of Appeals from Ralph Vitacco, Director of Planning & Economic Development re: Application for Comprehensive Permit Village Green, dated July 5, 2024 (6 pages)
20. Cape Cod Commission’s Climate Action Plan (copy not provided to the Board)
21. Commonwealth of Massachusetts 40A Section 3 Paragraph 9 (copy not provided to the Board)
22. Unspecified report referenced by Mr. Cleary re: discharge of 1.6 million gallons per day (copy not provided to the Board)
23. Stretch Code (copy not provided to the Board)
24. Traffic Study dated November 11, 2009 (copy not provided to the Board)
25. January 9, 2019 Traffic Study (copy not provided to the Board)
26. Mass. State Building Code (copy not provided to the Board)

27. Boston Globe article referenced by Jonathan Finn (copy not provided to the Board)
28. Popponesset Watershed Water Report (copy not provided to the Board)
29. Letter to NSG Village Green-1, LLC from Colin M. McNiece, General Counsel, MassHousing re: Village Green, Sandwich, Project Eligibility/Site Approval, MassHousing ID No. 1142, dated August 19, 2022 (3 pages)
30. Letter to Mr. Michael J. Busby, Relationship Manager, MassHousing from Shane Hctor, Chairman, Sandwich Board of Selectmen re: NSG Village Green-1, LLC Project Eligibility Letter, dated June 29, 2022 (4 pages)
31. Popponesset Bay Watershed Permitting Pursuant to the Massachusetts Clean Waters Act, Intermunicipal Agreement between The Towns of Barnstable, Mashpee and Sandwich, dated November 13, 2017 (20 pages)
32. Dennis Murphy's case law reference out of Oak Bluffs (copy not provided to the Board)
33. Amy Kwesell's cited case law: Dennis Housing Corporation vs. Dennis Board of Appeals, dated 2002 (copy not provided to the Board)
34. Amy Kwesell's cited case law: Woodland Heights Partnership vs. Bourne Zoning Board of Appeals, dated 1993 (copy not provided to the Board)
35. Town of Sandwich Protective Zoning By-Law, dated November 2022 (94 pages)