

PLANNING BOARD

DATE: March 27, 2014
TIME: 7:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting
PRESENT: Jonathan Hankin, Chairman; Jack Musgrove; Ethan Culleton; Brandee Nelson
Malcolm Fick, Associate Member
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 7:00 P.M.

FORM A's:

There were no Form A's presented.

MINUTES: MARCH 13, 2014

The Board continued approval of the March 13, 2014 minutes to the next meeting.

HOUSATONIC SOLAR 1: KIRT MAYLAND

Kirt Mayland from Housatonic Solar 1 was present to have an informal discussion with the Board regarding two projects he plans to submit next month. Mr. Mayland said he is an environmental lawyer with a home in Housatonic. He said he is in the renewable energy business. He advises as a lawyer on environmentally sensitive issues. He said he looks for certain types of property, brown field properties, old landfills and gravel beds. Mr. Mayland said he has two projects in Great Barrington an old gravel pit/landfill on Van Deusenville Road. He said according to the DEP it is a closed landfill. He said the DEP is excited to have it closed and cleaned up. The land is approximately 9-10 acres. There are some restrictions due to the size of the pit but there should be no impact on neighbors.

Mr. Mayland said the second project is bigger. It is part of the Rising Paper property on Park Street consisting of 62 acres of land. He said 26 acres are considered brown field. He said there are 15 acres west of the transmission lines that are flat and open. There are another 5 acres that have potential, but if there is an issue with the neighbors it will not be done. Mr. Mayland said this property has some Natural Heritage and DEP hoops to get through. He said he currently has a soft agreement from those groups.

Mr. Mayland said he would like to have a conservation easement on 3,000 feet of river frontage allowing for a walking path. He said he would like to have public access to the walkway off of Division Street.

Mr. Mayland said his ultimate goal would be to sell power to the both the School District and the Town. He said he will own the land, not lease it. He said he hopes to have a submission on both sites over the next 2-3 weeks.

Mr. Hankin asked how many kilowatts would the sites produce.

Mr. Mayland said he hoped the 15 acres site would produce 1.6-1.7 megawatts.

Mr. Musgrove asked what the break even point would be for the projects.

Mr. Mayland said there are several thresholds. The interconnections with National Grid and site work are thresholds. He said he has done this long enough that he does not anticipate issues.

Mr. Musgrove asked if National Grid is happy to see these types of projects.

Mr. Mayland said the people he deals with are very helpful and happy to deal with him. He said the utilities lobby against every solar issue.

Ms. Nelson asked where the largest project Mr. Mayland had done was located.

Mr. Mayland said Brimfield. It is under construction and will produce 6 megawatts of power. He expects to complete the project on Monday. He said he has another project in Orange. There are two sites located on farms that will produce 3 megawatts.

Mr. Hankin asked if the two sites in Great Barrington are cleared.

Mr. Mayland said yes. He said the Rising site has some shrub growth that will require minimal clearing. He said one issue may be metal debris just below the surface. He said junk had been dumped on the site over a long period. He said there are no chemicals to deal with just metal debris and paper ash.

Mr. Mayland said the gravel pit may require some trees to be cleared on the hillside to the west. He said he does not know the extent of clearing at this point.

Mr. Rembold brought up a map of the area. He said there are flood plain issues.

Mr. Mayland said that would go before the Conservation Commission.

Mr. Hankin said it would also go before the Selectmen.

Mr. Rembold said a special permit would be required from the Board of Selectmen.

Mr. Mayland said it is his goal to put the panels on posts pushed into the ground. If posts are used there will be no compensatory storage required. If blocks are used there would be a great deal of compensatory storage. He said he is not concerned about flooding.

Mr. Hankin asked if the Rising Paper site would be more visible than the VanDeusenville site.

Mr. Mayland said not really.

Mr. Rembold said the Rising Paper site is lower than the road.

Mr. Mayland said there is one neighbor who may be able to see the five acre site. He said he plans to reach out to all neighbors when there is a complete plan to show them what is being proposed.

Mr. Mayland said he would be happy to have Berkshire Natural Resource Council have an easement. He said in 25-30 years the panels would come out and the land would be put back into conservation.

Mr. Musgrove asked what the investment would be in both properties.

Mr. Mayland said he expected the investment to be \$10-12 million. He said he is working on a tax agreement to be spread out over the life of the property. He said this would go before the Annual Town Meeting.

Mr. Hankin asked if the panels could be made in the Housatonic Mills.

Mr. Mayland said the majority of the materials are made in Massachusetts. He said unfortunately the panels are made in China. The domestic panels are too expensive.

Mr. Hankin asked in which zoning districts the parcels are located.

Mr. Rembold said the Rising Paper property is located in the Industrial zone and the VanDeusenville property is located in the R-2 zone.

Mr. Fick, the Solar Coach for Great Barrington, said there are many people who want to get solar panels for their homes but they don't qualify.

Mr. Hankin asked Mr. Mayland what the chances are of the projects being built.

Mr. Mayland said he has never done a project to this point that has not been built.

Mr. Hankin asked about the inter-connect agreements.

Mr. Mayland said the agreements are done. The lines are good there is nothing to stop the project. He said there may be issues before the Conservation Commission but not many. He said the landfill does not possess any environmental value.

Mr. Mayland said there are a host of issues on the Rising Paper property with wetlands and Natural Heritage. He said he is not concerned and hopes to be under construction by July 1.

Mr. Hankin asked Mr. Mayland if he has looked at the zoning bylaws.

Mr. Mayland said yes but he will look at them more closely.

Mr. Hankin said we previously had an applicant that was unable to make the project work.

Mr. Mayland said yes he was aware of the previous applicant. He said the trick is to have the right site. He said he doesn't expect too much opposition. He said he has focused on gravel pits and landfills and stayed away from farmland.

Mr. Hankin asked Mr. Rembold what thoughts he had on the permitting process.

Mr. Rembold said zoning is in flux as to how to permit solar. He said there is a court case, Briggs vs. Marion (town of) where the ZBA backed the Building Inspector's denial of a permit for commercial solar on a family owned vacant lot. The ZBA found that the use would be permitted by right in an industrial zone as light manufacturing or processing, therefore denying the use in a residential zone was not unreasonably regulating it. Land Court upheld the ZBA's finding. There is nothing final in that case. Mr. Rembold said the zoning bylaws for Great Barrington are silent on solar.

Mr. Hankin asked if the use is an essential service.

Mr. Rembold said that designation applies to public utilities. He said the Building Inspector's interpretation is what will guide it.

Mr. Fick asked if the use (light manufacturing/processing) would be allowed in the R-2 zone.

Mr. Rembold said no.

Mr. Mayland said Kopelman and Paige have opined that unless there is a public health or safety issue it should be allowed. He said they are of the opinion that solar use under state law, MGL 40A, section 3, would override the bylaws.

Mr. Rembold said there are cases where farms apply for commercial solar as an accessory use to the farm. It is debatable if the use is essential to the operation of the farm. It is a gray area.

Mr. Musgrove said solar use is allowed in the Industrial zone it is the residential zones that there is a question. He said if no one can see the panels no one should care. He said that is his opinion.

Mr. Fick asked if it an application would come before the Planning Board.

Mr. Musgrove said yes a Site Plan Review application.

Mr. Hankin said it sounds like the best of all possible worlds. He said we want to know how we can make it happen.

Mr. Musgrove asked Mr. Rembold if we had received anything from Town Counsel when we reviewed the previous application for solar use.

Mr. Rembold said it was never resolved.

Mr. Mayland said he will apply at his own risk. He said he would talk to the Building Inspector to get an interpretation from him. If there is no opposition he would be comfortable moving forward with the process.

Mr. Hankin said he thinks everyone is in favor of solar.

Ms. Nelson asked if there is a risk to the Board or to Mr. Mayland.

Mr. Rembold said there is no risk to the Board. It is how the Building Inspector interprets the bylaw.

Mr. Hankin said our goal should be how to permit it not how to stop it.

Mr. Fick said he does not want to see it designated light manufacturing.

Mr. Mayland said he felt good about both parcels but at a minimum the Rising site should go forward. He said he would have a conversation with the Building Inspector and report back in a couple of weeks.

The Board thanked Mr. Mayland for attending the meeting.

HOUSATONIC VILLAGE ZONING:

Mr. Rembold had a Power Point presentation regarding the zoning issues in Housatonic dated March 26, 2014. He reviewed the analysis done by BRPC dated August 23, 2012 and presented to the Board at that time. Mr. Rembold said the BRPC analysis determined that the B-2 zoning is silly in Housatonic.

Mr. Rembold asked the Board how they want to move forward with the zoning scheme. He suggested robust public involvement.

Mr. Musgrove said the goal should be that not one house is non-conforming. There is no incentive to fix up a property when it is non-conforming.

Mr. Rembold said the bigger problem is the uses. There are many 2-family uses that are non-conforming.

Mr. Musgrove said the zones need to be eliminated. Have minimal setbacks to make everything conforming. New construction should be required to meet more stringent requirement. He said he has thought about it for a long time. We owe it to the people in Housatonic to eliminate non-conformities.

Mr. Rembold said he agrees but he thinks there needs to be more thought about how to approach. He suggested that when the weather is better the Board meet in Housatonic and walk around the village.

Mr. Fick said there needs to be a plan to get input from the residents.

Mr. Hankin asked if there is any of our current zoning that fits in Housatonic.

Mr. Rembold said the VCOD addresses some of the issues. In general it allows contextual setbacks.

Ms. Nelson commented that there are very few buildable lots. Most of the lots have been built on.

Mr. Rembold said there is not much infill potential. The village is mostly built out. The issues to deal with include dimensions, lot uses and parking in addition to others.

Mr. Hankin said the goal is get everyone thinking.

TOWN PLANNER'S REPORT:

Mr. Rembold said the Board will have a special permit application at the next meeting. The Board will make a recommendation to the ZBA for a change of non-conforming use at 11 Crissey Road. There will be no change to the exterior of the building. He asked if the Board wanted to set a site visit.

Mr. Musgrove said he didn't see a need for a site visit if there are no exterior changes.

Mr. Hankin suggested everyone drive by prior to the next meeting.

Mr. Rembold said BRPC approved the regional plan.

Mr. Hankin asked what that means for us.

Mr. Rembold said the plan is not law or legislation. He said it is just a policy. He said the regional plan runs a parallel track with our Master Plan. Their goals are similar to ours. The plans are compatible. If the State updates Zoning and Planning legislation we will be in good shape to comply with the update.

Mr. Rembold said the BRPC plan dealt with the regional population loss. He said the economic section is good. It identified problems for small businesses. It also looked at agriculture and renewable energy.

Mr. Rembold said he would like to get the hotel/motel owners together to discuss the zoning amendment. He said he would let the Board know when he schedules a meeting.

Mr. Rembold showed the Board a map of the Town showing that 2/3 of the property is protected and non-taxable land. Only one third of the Town's land is subject to taxes.

COMMITTEE UPDATES:

Mr. Fick said Solarize Great Barrington is at a Tier 5. The Town has over 200 kilowatts of solar power contracted. We have almost double the kilowatts of the next closest town in the State. He said it is a tribute to the people in Great Barrington.

Mr. Rembold said it is a tribute to the Town's Solar Coach, Mr. Fick, and the Energy Committee.

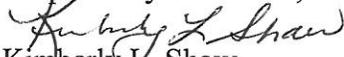
Ms. Nelson is a member of the Lake Mansfield Task Force. She said the road reconstruction discussion is on hold. The Task Force is focusing on smaller more affordable pieces. The DPW has the road on the 5 year Capital Improvement Plan.

Mr. Culleton said the Land Conservancy is trying to reshape their board and mission. He said he is not seeking re-election so he can focus on the Land Conservancy.

Mr. Hankin said the Hutchinson appeal was continued to April 30 at 8:00 P.M.

Without objection Mr. Hankin adjourned the meeting at 8:59 P.M.

Respectfully submitted,


Kimberly L. Shaw

Materials presented at the meeting:

- Power Point presentation for Housatonic Village date 3-25-2014
- BRPC memos on Housatonic Village zoning; (1) B-2 modifications dated 9-27-2012, and (2) residential analysis dated 9-27-2012
- Mass Land Court Case Briggs v. Marion ZBA regarding zoning for large scale solar

