

GREAT BARRINTON PLANNING BOARD

DATE: January 25, 2017
TIME: 6:00 P.M.
FOR: Regular Meeting
PLACE: Great Barrington Fire Station
PRESENT: Brandee Nelson, Chair; Jonathan Hankin; Jack Musgrove; Jeremy Higa
Pedro Pachano, Associate Member
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 6:01 P.M. Mr. Higa and Mr. Pachano had not yet arrived.

FORM A'S:

There were no Form A's presented.

MINUTES: JANUARY 12, 2017

Mr. Hankin made a motion to approve the minutes of January 12, 2017 as amended, Mr. Musgrove seconded, all in favor.

BENCHMARK DEVELOPMENT: 34-42 BRIDGE STREET

Representatives from Benchmark Development, Michael Charles and Brian Cohan were present to continue discussion of their project on Bridge Street. Also present for Benchmark Development were Larry Boudreau, landscape architect from Chazen and Tom Johnson, traffic engineer from Chazen. Revised plans including a cover letter, site plans, landscaping plans, lighting plans, and traffic and stormwater reports were submitted to the Board on January 17.

Mr. Charles began the presentation addressing issues and concerns raised at the previous discussion on December 8, 2016. He began the discussion outlining Phase 1 of the project. A temporary access road will be created along the east side of the existing Co-op building. The road will provide temporary access to the site for all those entitled to use the existing right of way when construction makes that access impossible. Ultimately this will be made a permanent access road for the town's/ballfield's use and for the applicant to use for trash removal from Building 2 only. He said a wall will be built between our site and the ball field. The existing backstop will be moved. Work will begin as far east as necessary moving west toward the new access road. A guard rail will be installed on the road. The Dempsey garage building will be demolished in this phase and replaced with a temporary parking lot.

Mr. Higa arrived at 6:06 P.M.

Mr. Charles said the Phase 2 portion of the project will include construction of the new Co-op building. The existing Co-op building will remain with the business open. Mr. Charles said the easement from Bridge Street provides access to other users. At no time will they not have access.

Mr. Pachano arrived at 6:08 P.M.

Mr. Charles said it will take 8 weeks to do the up front work in Phase 1. Construction of the new building will take 12-14 months. The Co-op will remain open during the construction phase. Parking will be provided on the south side of the property. A fence will be installed to provide guidance for pedestrians to walk to the store from the parking lot. Deliveries will continue to be made on the east side of the building. Deliveries by trailer truck may need more coordination to assure they can access the site for deliveries.

Mr. Charles said Phase 3 of the project will deal with half of the project going north. It will be during Phase 3 that the existing building will be demolished.

Mr. Charles said Phase 4A will include work in the southern part of the parking lot. A wall will be built to the north to hold up the grade. During Phase 4A the wall and the parking lot will be finished. Phase 4B would include building the new condominium building. Staging for this part of the project will be to the south on land owned by John Dewey Academy (JDA). Final details have yet to be worked out.

Mr. Charles said parking proximate to the site will be arranged and provided to meet the parking requirements.

Mr. Charles said the new access road will ultimately be a Town access road for the ball park. We will want to use the road to access our dumpster. That detail will be worked out with a maintenance agreement with the Town.

Mr. Musgrove asked where the east side property line is.

Mr. Charles said it is along the wall. All of the access road is on Town property. We have been working with the Parks Commission regarding the road.

Mr. Musgrove asked what the distance is between the home plate and the access road.

Mr. Charles said 40 feet.

Mr. Musgrove said he thought when the project was done the road would be for Town use. He wanted to be clear that the applicant would still need access to the road.

Mr. Charles said yes.

Mr. Musgrove asked how the Co-op will be accessed during the construction.

Mr. Charles said there will be access from the parking lot just south of the market.

Mr. Musgrove asked if the pedestrians would have their own path to the store or will they have to walk in the road.

Mr. Charles said they will have their own path. Pedestrian traffic will not mix with construction traffic.

Mr. Cohan said the black dashes on the plans do not denote fencing, only the project area.

Mr. Hankin asked if people will still be able to access the market from Bridge Street.

Mr. Charles said yes.

Mr. Hankin said the Co-op uses parking spaces from Wheeler & Taylor.

Mr. Charles said the Co-op leases 16 parking spaces from Wheeler & Taylor.

Mr. Cohan said there will always be access for Wheeler & Taylor and BCC from the alternate access road.

Mr. Hankin asked if there had been discussion with the Town about accessing the underground garage from the temporary access road.

Mr. Charles said there has not been any discussion.

George Ryan from Wheeler & Taylor commented that with everyone accessing their parking from the temporary access road there will be a lot of traffic for a temporary road.

Mr. Charles said it will be a well built road as it will ultimately be a permanent road.

Ms. Nelson said there could be sight line issues from the new access road looking west toward Main Street.

Ms. Nelson said there is a large condensing unit behind the Co-op that is essential for the refrigeration units.

Mr. Charles said it will not be moved during the construction process.

Ms. Nelson asked if there will be environmental impacts when the building is demolished.

Mr. Charles at this point there are no indications of any environmental impact. He said there will be further testing.

Ms. Nelson asked if abating in the Co-op building will be done during Phase 1.

Mr. Charles said maybe.

Mr. Hankin asked what will happen to the existing powerhouse on the site.

Mr. Charles said there is a debate about where it should go and to whom it should go. There have been discussions with the Historic District. We are willing to move it and build a shell over it. We are willing to have a plaque put on it. The discussions are continuing.

Ms. Nelson asked if any estimates for relocating it had been obtained.

Mr. Charles said no.

Mr. Musgrove asked what will happen if you build the new building, tear down the existing building then learn no one can afford the condominium units you propose. If the second building is not built will we always have to drive around to the access road?

Mr. Charles said no the site will be accessed from Bridge Street.

Mr. Cohan said building one stands on its own. We do not have to build the second building.

Mr. Charles said all of the parking will be built.

Mr. Cohan said if building 2 were tabled we might have to build a bigger retaining wall around the south edge of the parking lot.

Mr. Hankin asked if the parking as shown in Phase 4A will be built.

Mr. Charles said yes, all of the parking will be built.

Mr. Boudreau said all of the parking has to be built to provide the 85 parking spaces needed to meet the parking requirements.

Mr. Musgrove asked if any water from the site will run into the river.

Mr. Cohan said no.

Ms. Nelson asked what the time frame will be to build Phase 3 and 4.

Mr. Charles said Phase 3 will take 9-11 weeks. Phase 4A will take 6-8 weeks.

Ms. Nelson said approximately 2 years for all 4 phases.

Mr. Charles said no. Some work will be done concurrently. We expect 12-16 months for Phases 1-4A. Building 2, Phase 4B, is expected to take 14 months.

Mr. Hankin asked about the staging area for Phase 4B.

Mr. Charles said there will be an agreement in place with JDA to stage on their property.

Mr. Musgrove asked about snow removal.

Mr. Boudreau said if it is necessary to remove the snow we will.

Mr. Boudreau began discussion. He referred the Board to the plans beginning with page C131. He said there will be 63 spaces on the south side of the Co-op building. There will be a 5% slope that will require some fill to bring to grade.

Mr. Boudreau discussed the access road saying the grade of the road is pitched from east to west. At no time will water drain into the ball field. Drainage work will be done during the road construction.

Mr. Hankin asked if there are catch basins or storm drains in the parking lot.

Mr. Boudreau said yes. There is an existing 48" drain in the Wheeler & Taylor parking lot. We have an easement for it.

Ms. Nelson asked if there is a maintenance agreement with the Town.

Mr. Charles said there has been a brief discussion. There is a sample maintenance agreement that has to be worked through.

Mr. Musgrove asked if the handicap parking spaces in the northwest corner of the temporary parking lot are flat enough to get to the front door.

Mr. Boudreau said yes.

Mr. Cohan said there are 4 handicap parking spaces in the temporary lot and the three in front of the market will remain.

Ms. Nelson suggested that wheel stops be put in place on the south side of the temporary parking because of the steep change in grade there.

Mr. Boudreau said he would put the wheel stops in.

Mr. Boudreau said in Phase 2 the sewer connection will be installed. Mr. Boudreau referred to page C110 to discuss the drainage during Phase 2. He said temporary drainage will go into a 48" drain. Infiltrators will be installed during Phase 4A.

Ms. Nelson asked if there was anything proposed for the 2 Elm trees that the Co-op had planted. She asked if they could be relocated.

Mr. Charles said he expected they will have to be replaced as the existing trees are big. He said there is a meeting with the tree committee scheduled for February 1.

Mr. Cohan said the vehicular movement on the site will be the same except for the entrance moving 100 feet to the east.

There was discussion of the parking lot access during Phase 3.

Mr. Musgrove asked how a handicapped individual would access their apartment during Phase 3.

Mr. Rembold said the construction details have not been figured out. He said he wouldn't expect any certificates of occupancy would be issued until the parking lot is done.

Mr. Charles said entrance would be via the access road into the new parking lot. The individual would cross the road to the patio of the new building then to the proposed one story handicapped lift on the northeast corner of the new building. The lift will allow access to the building's elevated sidewalk that leads to the retail and office spaces as well as the residential lobby where the elevator will be located.

Mr. Musgrove just wanted understand that there is handicap access to the Co-op and the apartments in the new building. He said you might not be able to sell the units until the parking lot is done.

Mr. Cohan said people won't be able to move in until the parking lot is done.

Ms. Nelson asked about storm water management.

Mr. Boudreau referred to page C160 of the plans titled Utility Plan. He said there will be drainage in the patio area as well as the loading dock area. He said there is a manhole that will tie into an existing structure then into the existing 48" pipe. No treatment of the water is proposed. This is a temporary condition. When the project is built out the pipe will tie into a permanent infiltration system on the east side of the project ultimately draining into a system in the middle of the lot on the south side.

Mr. Rembold said there is a crisscross of the pipes. He said it is important for you to make sure it all works.

Mr. Boudreau said there will be further discussions with the Town about the sewer connection. He said he will follow up with the Waste Water Treatment Plant about capacity levels.

Mr. Rembold asked if all the properties are served by the overhead electric line.

Mr. Boudreau said he believes they are.

Mr. Charles said it needs to be clarified with the electric company.

Mr. Rembold said to check into the water service to separate the Co-op from residential usage. He said this need to be coordinated as soon as possible.

Ms. Nelson asked for the traffic overview. She asked for information about the new entrance and how it meets general standards.

Mr. Johnson said he has not been involved with the new entrance. He said he would expect it to be built to Massachusetts standards.

Mr. Johnson discussed data collected for trip on and off the site. He said it is projected that there will be 240 new trip ends on a week day afternoon and 175 new trip ends on a Saturday afternoon.

Mr. Hankin asked what the existing count is for the site.

Mr. Johnson said currently there 80 trips per day exiting the site 60 trips per day exiting the site on a Saturday. He said he doubled the number of trips in the projected number of trips.

Mr. Ryan asked if the trips including entering the property from Main Street.

Mr. Rembold said the trips were calculated only from the Co-op Bridge Street access.

Mr. Musgrove asked if the projected totals included both the residential use and retail uses.

Mr. Johnson said yes.

Mr. Hankin asked if the numbers figured in people walking to Town from the site.

Mr. Johnson said yes. He said he took an internal credit for people walking to Town. He said the intersection still maintained the same level of service.

Mr. Hankin asked if the proposed hotel had been figured into the calculations.

Mr. Johnson said yes and the residential units proposed for 100 Bridge Street.

Mr. Hankin said it appears that today there are 2.6 trips per minute. That number will go to 6.6 per minute. He said he does not think that seems like a big deal.

Mr. Johnson said it is reasonable in that context. He said also not all traffic will turn in the same direction. He recommended a stop sign and striping in the parking lot.

Ms. Nelson thanked him for his comments.

Ms. Nelson asked about the landscaping and lighting.

Mr. Boudreau discussed the lighting shown on page C190 of the plans. He said that at the last meeting it was recommended that the light temperature be at 3500k or less. The proposed lighting has a light temperature of 3000k. A cut off sheet for the fixtures was presented. All lights have a full cut off. The light poles range from 15 feet to 20 feet. The requirements are met on the site for foot candles at the property line. He said there is more lighting proposed for the area near the ball park.

Ms. Nelson said you need to identify why we would allow you to violate the foot candles near the park and the sidewalk.

Mr. Rembold said there is a street light at the crosswalk. There is not a lot of light in that area.

There was discussion of temporary lighting as shown on page C191 of the plans.

Mr. Musgrove said there might need to be some temporary lighting on the temporary access road.

Ms. Nelson agreed adding there might need to be more light for the path from the parking lot to the store.

Mr. Boudreau discussed the landscaping plan on page C190 of the plans.

Ms. Nelson asked that a demolition plan for the landscaping be submitted to the Tree Committee.

Mr. Boudreau said there will be trees planted near building 2. There will be a low serpentine wall along Bridge Street. It is proposed to be 2-3 feet tall and made of tumbled stone.

Mr. Musgrove said it will provide a visual separation.

Mr. Boudreau said yes.

There was discussion of the plantings as shown on the plan.

Mr. Hankin asked if those are foundation plantings proposed around building 2.

Mr. Boudreau said yes and went over the plan.

Ms. Nelson asked about the property management.

Mr. Charles said we will do that.

There was discussion of the new building.

Ms. Nelson asked what has changed with the architecture since the last meeting.

Mr. Charles said only the accessible route has changed. He said people will cross from the parking lot to the patio area go north past the cart storage area to the northeast corner to the lift in that corner that will put them on the Bridge Street sidewalk level.

Mr. Hankin expressed concern about the safety of the access route to the lift as it is below grade and does not appear to be visible from other areas.

Ms. Nelson said she thinks we need to see something more representative of the northeast corner. She said she doesn't see the area of the lift in any of the elevations.

Mr. Charles said the grade along the driveway is fairly accurate. He said he would have the lift detail added to the rendering.

Mr. Musgrove agreed. He said he would like to see what it looks like.

Mr. Hankin said he would like the safety issue addressed.

Mr. Musgrove said that area needs to be well lit and visible.

Ms. Nelson asked if the Co-op's cooling structure would be on the roof.

Mr. Charles said yes.

Ms. Nelson asked how many units will be on the roof, how much noise will be generated and the heights of the mechanicals.

Mr. Pachano asked if the height limit includes the parapet.

Mr. Rembold said no.

Ms. Nelson asked if the Board was ready to make a recommendation to the Selectboard.

Peter Puciloski, attorney for Wheeler & Taylor asked if he could comment.

Ms. Nelson said yes.

Mr. Puciloski said Wheeler & Taylor is in favor of the plan for the property. He said the concern is that the deeded rights of the access road are being violated. He said the current driveway into the parking lot is a deeded easement for Wheeler & Taylor's use. The easement was granted in 1951 and has been continuously used since that time. He said Wheeler & Taylor is willing to negotiate, but no one has spoken to us.

Mr. Ryan said he is willing to negotiate, but we have our own plans for our parking lot that may be impacted by this project.

Mr. Charles said the issue will be resolved as the lawyers are discussing it.

Mr. Cohan said it is a legal issue.

Ms. Nelson said since Wheeler & Taylor is not unwilling to negotiate then we can move to recommend.

Mr. Musgrove said he recognizes the legitimate concern of the neighbor about easement rights and to make sure there is concurrence regarding adequate alternative temporary access.

Mr. Hankin said he is concerned about the lift and the potential of creating a hazardous condition. He said it may not be part of the Site Plan Review.

Mr. Musgrove said acceptable safe access needs to be demonstrated. He said the lift is technically outside although it is under the roof. He said he considers it to be part of Site Plan Review.

Mr. Hankin said the elevation will change with the lift shown. He said he wants to see more.

Ms. Nelson asked there could be a condition that our recommendation is subject to satisfactory resolution of the accessible route. We are reluctant to recommend in favor until the issue is resolved.

Mr. Hankin said if the Selectboard grants the special permit on what is submitted we would not be sure what the special permit would be for.

The Board discussed items that still needed to be addressed. The items include, landscaping, the design of building 2, the accessible route and discussion with the Parks Commission regarding the access road. There was discussion of the conditions to be sent to the Selectboard.

Mr. Musgrove made a motion to send a positive recommendation to the Selectboard with four conditions: handicap access be accurately depicted in a drawing to be submitted including the safety of the access; concurrence from the abutter, Wheeler & Taylor, that the access of the easement has been resolved; the plans for building 2 to be submitted to the Planning Board prior to getting a building permit; review and approval by the DPW of the curb cut modifications and the storm drain modifications, Mr. Hankin seconded, all in favor. Mr. Higa, as an employee of the Co-op, recused himself.

The applicant will return for Site Plan Review.

The Board took a five minute break resuming the meeting at 8:37 P.M.

BERKSHIRE AVIATION ENTERPRISES: 70 EGREMONT PLAIN ROAD

Mr. Hankin recused himself from the discussion as he is an abutter.

Attorney Lori Robbins was present to discuss the application for Berkshire Aviation Enterprises to add a deck on the north side of the existing office building. Manager of Berkshire Aviation Enterprises, Ken Krenshaw, was also present.

The Planning Board members conducted a site visit prior to the meeting.

Ms. Robbins said the airport office has existed since the 1950's. The airport is a pre-existing non-conforming use. It is located on a 92 acre tract of land. There is 1,100 feet of frontage on Egremont Plain Road and 1,900 feet of frontage on Seekonk Cross Road.

The application is to build a deck and a handicapped access ramp to the deck on the rear of the existing office building. Ms. Robbins said there was a previous approval by the ZBA that was withdrawn as the decision was appealed by an abutter resulting in a trial.

Mr. Musgrove made a motion to send a positive recommendation to the Zoning Board of Appeals, Mr. Higa seconded, all in favor.

The Board briefly discussed the Site Plan Review for the deck and handicap ramp. Ms. Robbins asked for waivers on some of the criteria. The Board agreed to grant the waivers as requested.

Mr. Musgrove made a motion to approve the Site Plan Review, Mr. Higa seconded, all in favor.

The Board began discussion of the special permit to allow an aviation field in the R-4 zone.

Ms. Robbins said the aviation field is a pre-existing non-conforming. There have been challenges from the abutter so it was suggested we apply for a special permit. The airport has been there since 1931. Getting the special permit will allow for changes going forward.

Mr. Rembold said there are no changes from what is currently there.

Ms. Robbins said that is correct. It is just an aviation field.

Mr. Musgrove made a motion to send a favorable recommendation to the Selectboard for a special permit to be granted for an existing aviation field allowed under E1 of the Table of Uses, Mr. Higa seconded, all in favor.

Ms. Nelson suggested going through the information for the Site Plan Review for the new construction of three airplane hangar buildings and associated work to provide the applicant with what they will need to provide. She said the Site Plan Review will take place after the special permit has been granted.

Mr. Hankin asked, as an abutter, if the Water Quality Protection District applies for the construction of the hangars.

Mr. Rembold said no special permit is required for the WQPD. The parcel is so large that it does not trip the percentage threshold to require it.

Mr. Hankin asked if the hangars were strictly for storage or will there be mechanical work done in them.

Ms. Robbins said they are strictly for storage. They are not designed for repairs.

An audience member asked how many more planes will be brought into the neighborhood.

Ms. Robbins said she didn't know the answer to that. She said hopefully there will be more than what is currently there as that is the purpose of growing the business. We are not sure if 18 more bays will bring 18 more planes.

The same audience member asked what the projections for growth are for her neighborhood.

Ms. Nelson said this discussion is relative only to the three new hangars.

The same audience member said this will make a profound impact on our neighborhood. The business is not little. We need to protect the nature of the neighborhood from this luxury business.

Mr. Rembold said the use and possible expansion is part of the special permit process. This is a good reason not to vote on the Site Plan Review application.

Mr. Higa asked if people who currently have tie downs will want a hangar space.

Ms. Robbins yes, but it is difficult to say how many.

Holly Hamer said the hangars are applied for as an accessory use to the airport. She said it is more complicated than that. She said the Master Plan recommends land use compatibility considerations. Potential environmental impacts need to be monitored.

Michael Peretti from 125 Seekonk Cross Road said he does not oppose the application. He said he has concerns about the placement of the hangars. He asked why they aren't closer to the airport office. Mr. Peretti said the hangars are proposed in an area with a beautiful vista. He said the proposed location seems ridiculous.

Ms. Nelson said the comments should be made at the Selectboard's public hearing.

Airport Manager, Ken Krenshaw, said it is difficult to continue operations at the airport. He said there are financial constraints. This is not a hobby, it is a business. He said it can't keep going as it is.

Ms. Nelson asked what the distance is to the residential properties. She suggested a balloon test to get a sense of the size and location.

Mr. Rembold said it might be useful before the Selectboard meeting.

Ms. Nelson said she would like to look at the run off calculations and the amount of additional storm water generated by the new impervious surfaces. She said she would like to know where it will go and how it will be managed. She said she would like information about usage. The patterns of use and the traffic generated from the use.

Mr. Krenshaw said the most air traffic comes from take offs and landings. When we have training taking place a student could have as many as 18 take offs and landings.

Mr. Musgrove asked how many airplanes are currently housed at the airport.

Mr. Krenshaw said we have 37-51. It depends on the season.

Mr. Musgrove asked how many of those typically fly per day.

Mr. Krenshaw said 4.

Ms. Nelson said she would like to have an estimate in the increased percentage of flight traffic.

Mr. Krenshaw said typically most pilots fly 40-50 hours a year that equates to 1 hour a week. We are primarily a training center for the next generation of pilots.

Mr. Musgrove asked how many students train at the airport.

Mr. Krenshaw said there about 10 students a week who train.

Ms. Nelson said she would like a baseline of information on how many spaces currently exist for airplane storage, and what is anticipated, to get a sense of the increase in usage.

Ms. Nelson asked if there would be any lighting proposed on the buildings or along the driveway or taxiway.

Mr. Krenshaw said the lights at the airport are pilot controlled. Once the lights have been activated they automatically go off in 15 minutes.

Ms. Nelson asked that that information be included for the Site Plan Review. Other items to be provided include the reason for the location, power plans for the hangars and the color of the buildings.

Mr. Musgrove asked if there are any provisions for fuel spills.

Mr. Krenshaw said there is no additional threat from fuel spills than what currently exists with the tie downs. The hangars should be safer as there will be a concrete slab.

Ms. Nelson said she would also like to have information provided on the height and species of the proposed hedges. She asked that the balloon test be coordinated with Mr. Rembold.

Mr. Musgrove asked for four balloons, one for each corner of the building site.

KEARSARGE ENERGY, LLP: APPEAL TO ZBA

Mr. Hankin said he is an abutter to Mr. Coons' farm but not to the parcel in question. He said he had cleared this with the Ethics Commission and had filed an appearance of conflict of interest form with the town clerk.

Attorney Peter Puciloski was present for Kearsage Energy, LLP along with Bob Coons and his wife, Vicki, to discuss the appeal to the ZBA for a commercial solar array proposed for 10-12 acres of land on West Plain Road. The project would generate 3 million kilowatts per year, enough to serve more than 230 homes. The energy is proposed to be sold to a municipality in the middle of the state and Hampden County Correctional facility. The Building Inspector ruled that this is not a permitted use in the R4 zone. He said this is not a recommendation on a special permit but a recommendation on the appeal of the Building Inspector's decision.

Mr. Puciloski said currently the bylaws do not allow for a commercial solar array in any zone. There are no safety hazards.

Mr. Hankin said if the bylaw does not expressly permit a use it is prohibited. The Building Inspector has allowed commercial solar installations on date in the I zone as light manufacturing.

Mr. Puciloski said this use does not have the effects of a typical industrial use.

Ms. Nelson asked if Town Counsel had provided an opinion.

Mr. Rembold said Town Counsel will provide counsel to the ZBA.

Ms. Nelson asked why this is not considered accessory to the farm.

Mr. Hankin said the energy is being sold to the middle of the state.

Mr. Bernstein from Kearsarge Energy said the power was offered to Sheffield and Egremont but their energy needs are already being met. He said a project of this size has to be sold to a public entity. He said the project needs to move forward as the Solar Renewable Energy program is ending.

Ms. Nelson said this is confusing.

Mr. Rembold said the Board could say that the use is not allowed and stop there. Alternatively, guidance could be provided to the ZBA for land use policies and explain that the Board is taking steps to fulfill and clarify those policies. Finally the Board is not required to provide any input, although the ZBA would welcome the Board's input.

Ms. Nelson said she has her own opinion. She asked how we feel as a Board.

Mr. Rembold said in the past the Board has agreed with the Building Inspector's interpretation.

Mr. Musgrove clarified that this is the first application for a residential zone.

The applicant's representative from Tighe & Bond said the Building Inspector's interpretation is unreasonable as it flies in the face of state zoning law.

Mr. Higa said it isn't addressed in our zoning, but we have allowed it in the past.

Mr. Musgrove said we are taking steps to provide a bylaw at the Annual Town Meeting. The project should go forward under State Law.

Mr. Rembold said, if approved by the ZBA, Site Plan Review will provide the Board with the opportunity to regulate the project as it would fall under new construction of a commercial use.

Mr. Hankin said that is a good argument to fall back on. He said if the proposed bylaw doesn't pass the Annual Town Meeting we will still be in the same position.

Mr. Puciloski said if the project is not built by May it will lose its subsidies.

Mr. Hankin said he supports solar and State law trumps local zoning bylaw. The Planning Board would still have review with Site Plan Review.

Mr. Musgrove made a motion to send a positive recommendation to the ZBA. He said the Board acknowledges that the Zoning Bylaws are silent on the use except for Site Plan Review for new construction of a commercial use. In addition State law does not allow prohibition of a solar use except in the case of health, safety and welfare. This proposal does not create a health or safety issue so it should be allowed under State law. Solar uses are addressed in the Master Plan and we are working to create a bylaw that would allow this use if passed at the Annual Town meeting, Mr. Higa seconded.

There was discussion of the motion.

Mr. Higa said he is concerned about setting a precedent if the bylaw doesn't pass Town Meeting.

Ms. Nelson said if it doesn't pass we will have to do more to get a bylaw that will pass.

Mr. Hankin said, with the closing of the State's solar window, it is unlikely we will be flooded with commercial solar applications.

Mr. Pachano said he has had conversations with people from the Rudolph Steiner School who are concerned about the visual impact. He said concerns have been expressed to me.

The representative from Tighe & Bond said there was a meeting with the representatives from the school. The concerns about visual impact and the scenic character of the school were discussed. He said it was a good discussion.

Mr. Bernstein said we have been talking to the school for 6 months. He said they are looking for financial considerations. We have agreed to provide screening and to address any safety issues that might exist. Primarily we believe the issue is aesthetic.

Ms. Nelson said if people have concerns they should go to the public hearing. She said if the school is concerned about negative financial impacts they should say that is their concern.

Mr. Pachano said he is not opposed to this project he is just concerned about future projects.

Ms. Nelson called for a vote on the motion. All in favor.

TOWN PLANNER'S REPORT:

Mr. Rembold said the public hearing for the zoning amendments will be held at the next meeting. The Board will also look at the landscaping plan for Kimco at 300 Stockbridge Road.

Mr. Rembold said the meeting of February 23 meeting would include a special permit for the Green Houses project on 27 Humphrey Street, the former site of Dolby Florists, and continued Site Plan Review for the airport.

BOARD & COMMITTEE UPDATES:

There were no updates.

Mr. Pachano said he had a discussion about a seed mixture for planting in solar projects. He said the mixture is \$280 per 2500 square feet. The Board felt this was too expensive. Ms. Nelson suggested the mixture might be used as a buffer strip with another seed mixture used for the rest of the site.

Ms. Nelson said she had been contacted by Bobby Houston about restricting banks and real estate offices on Main Street. She explained it could not be considered for this year's Annual Town Meeting.

CITIZEN'S SPEAK TIME:

No one spoke.

Having concluded their business, Ms. Nelson adjourned at 10:08 P.M.

Respectfully submitted,



Kimberly L. Shaw
Planning Board Secretary