

PLANNING BOARD

DATE: July 13, 2017
TIME: 7:00 P.M.
PLACE: Large Meeting Room
FOR: Regular Meeting/Public Hearing
PRESENT: Brandee Nelson, Chair; Malcolm Fick; Jonathan Hankin; Jack Musgrove;
Jeremy Higa
Chris Rembold, Town Planner

Ms. Nelson called the meeting to order at 7:00 P.M.

FORM A'S:

There were no Form A's presented.

MINUTES: JUNE 22, 2017

Mr. Hankin made a motion to approve the minutes of June 22, 2017 as amended, Mr. Musgrove seconded, all in favor.

SPECIAL PERMIT: KEARSARGE SOLAR INC.

Ms. Nelson recused herself as she has a conflict of interest. She sat in the audience. Vice-chair Mr. Fick took over the meeting.

The Board conducted a site visit prior to the meeting.

Mr. Fick read the public hearing notice into the record. The notice was published in the Berkshire Record on June 9 and June 16, 2017. The notice was posted in the Town Hall and notices were sent to the abutters.

Mr. Fick said the special permit application is for a commercial scale ground mounted solar array in the R-4 zone at 0 West Plain Road.

Mr. Fick said the meeting will be recorded. If anyone in the audience wishes to record the meeting, please make it known.

Mr. Hankin made a motion to open the public hearing, Mr. Musgrove seconded, all in favor. The public hearing was opened at 7:03 P.M.

Mr. Rembold advised Mr. Fick to let the applicant know that there are only four members present to vote and they will need all four votes to be in favor. Mr. Pachano, the associate member, was not able to attend but he could be elevated to a voting member at the next meeting after listening to the recording.

Peter Puciloski, attorney for the applicant, said the applicant would go forward with the four members.

Mr. Hankin said the Attorney General has not approved the new bylaw as of this meeting. The applicant was aware.

Briony Angus was present from Tighe & Bond along with Brian Huntley the project manager. Andrew Bernstein and Henry Barrett were present from Kearsarge Solar, Inc. Industria Engineer Michael Lotti was present as well as Bob and Vicky Coons, property owners..

Ms. Angus discussed the application, West Plain Road Solar Project, 0 West Plain Road, Great Barrington Massachusetts, dated May 2017. She said the application is for a 2,000kW solar array at 0 West Plain Road. The project will be located on a separate 20 acre lot that is part of the farm. The lot has 200 feet of road frontage. The project is set back from the road. Kearsarge will own, develop and operate the project through a land lease with Mr. and Mrs. Coons. At the end of the lease term, the project will be removed. A decommissioning plan has been provided as part of the application.

Ms. Angus said the Site Plan Review and Special Permit requirements have been met, as well as the requirements of the newly passed bylaw. She said there will be no work in the wetlands or the buffer zone. The field is open so there will be no clearing of vegetation. The project area is 10.7 acres.

Ms. Angus said there will be two access roads. There was discussion with the Steiner School that determined that the construction road would be to the east. After construction that access road will be abandoned and returned to field.

Ms. Angus said the primary access road will be gravel. There will be a 7 foot fence, with privacy slats on the south side, around the project as well as vegetated screening.

Ms. Angus said the operation and maintenance plan was prepared by Kearsarge. There will be very little maintenance required. The site will be monitored remotely, it will be mowed a couple of times a year and there will be 1 vehicle trip a month to check the site.

Mr. Huntley discussed the construction of the road. He said the loam would be removed; fabric and gravel will be installed to make a durable roadway.

Mr. Huntley said the installation of the racking system will be either driven or screwed into the ground. The panels will then be installed.

Mr. Huntley discussed the level of noise expected. He said inverters will be inaudible at 150 feet. He said the project will be well below the 10db threshold of MassDEP. He said the privacy slats and vegetated screening will help to reduce the little bit of noise. He said the noise will be inaudible if there is any noise at all.

Mr. Musgrove asked about noise during construction.

Mr. Huntley said there will be noise during construction.

Mr. Lotti said the steel I beams will be installed. He anticipated that a project of this size would take 2-4 weeks to drive the posts into the ground. He said generally work hours are from 7:30 AM to 4:30 PM five days a week. He said they would comply with the requirements of the building permit. He said occasionally work is done on Saturdays.

Mr. Huntley went through the storm water drainage portion of the application. He said the drainage runs west to east currently. The post construction conditions should be very similar to what currently exists. The water will run off the panels and onto the ground.

Mr. Huntley said the FAA standard calculation was considered as part of the application. The calculation considers the elevation of the proposed project and the elevation of the runway. The project is only 30 feet higher than the runway. There is no impact on the flight path.

Ms. Angus said Kearsarge and the property owners met with the representative from the school and an agreement was made that Kearsarge will make a contribution to the school for environmental education.

Mr. Fick opened the discussion to the Board for questions.

Mr. Hankin asked where the loam stripped from the driveway construction will be stockpiled.

Mr. Lotti said it will be stockpiled at the front of the project and will be used as needed. The loam from the access road will be a windrow along the edge of the road and put back when that road is discontinued and made back into field.

Mr. Musgrove said he is concerned about the noise five days a week from 7:30AM-4:30PM.

Mr. Lotti said it will be more of a pinging sound. It is louder as you get closer.

Mr. Musgrove said his concern is specific to what will be heard in the school.

Mr. Lotti said there are a number of trees around the school. The closest point of the project to the school is 350 feet. The project will move quickly away from the school. As the project moves away from the school the noise will lessen. He said the project will begin closest to the school and move away.

Mr. Musgrove asked if the focus could be near the school and on a Saturday.

Mr. Fick added that there were many noise complaints from residents of Housatonic when the project was being installed. In Housatonic the noise complaints were quite a distance from where the project was going in. That is the reason we are concerned about the level of noise.

Mr. Higa asked what determines if the posts are screwed in or pounded in.

Mr. Lotti said the determining factors are the terrain, speed of installation and cost. He said screwing the posts is more costly and the amount of noise is about the same. He added that the noise is temporary and only during the construction hours.

Mr. Higa asked if there had been conversations with the school regarding the construction noise.

Mr. Bernstein said we would like to begin during the summer. We have to have the project completed by March. He said he had just completed a project near a middle school in Northfield. They did not receive noise complaints. He said we are trying to be flexible.

Mr. Musgrove said he wants a condition to mitigate the sound at the school.

Mr. Lotti said he has done many projects near schools, (Sunderland Elementary) and an abbey. He said there were very few complaints.

Mr. Hankin asked when the fence would be installed.

Mr. Lotti said typically the fence would be installed at the end because it is easier to move around prior to the installation.

Mr. Musgrove suggested installing the fence behind the school to keep the children from wandering into the project.

Mr. Lotti said we will be very flexible.

Mr. Higa asked about plantings.

Mr. Lotti said we will try to put plants in before October then in the spring.

There was a brief discussion about electromotive force (EMF). EMF is greater at the transformer to the point of interconnection.

Mr. Musgrove asked if the EMF is detrimental to people.

Mr. Huntley said studies have been done at several large facilities. It was determined that household appliances put out more EMF than one of these projects. He said the Board of Health didn't have any concerns. He said he is not aware of any health impacts from EMF.

Mr. Fick said he looked at the study, it was impressive. He asked if there were any other questions from the Board.

Mr. Fick said Mr. Pachano had sent a few questions. He asked for clarification on the reliable tax revenue for the Town. How does the Town benefit?

Mr. Bernstein said he met with the Town's Assessor and the Selectboard. He said the project will generate approximately \$25,000 per year for the next 20 years. The amount is based on

personal property tax and an increase in real estate tax. The property is currently in Chapter 61A it will taken out of 61 A and taxed at the regular tax rate.

Mr. Hankin said currently Mr. Coons is paying about \$78.00 per year for the 20 acre parcel.

Mr. Fick said Mr. Pachano suggested the Board conduct a site visit prior to the operation beginning and the permit being closed to see the Red Cedars planted 8 feet apart. He also asked that the applicants consult with someone about using a seed mixture of native plants as it is part of the new bylaw.

Mr. Hankin asked about the decommissioning guarantee.

Mr. Bernstein said he would like to provide a letter of credit or establish a fund to cover the decommissioning cost. If a fund is set up the goal would be to have all the money in the fund at the end of 10 years.

Mr. Hankin asked what the estimate is for decommissioning the site.

Mr. Fick said it is in the proposal. The estimate is \$35,000.

Part G of the application outlines the expense for decommissioning the site.

Mr. Huntley said the estimate is based on total restoration of the site and it does not include any scrap value. Right now the value of scrap would exceed the cost to decommission the site.

Mr. Hankin asked about the panels.

Mr. Huntley said currently the panels are recycled by a panel company. The glass and aluminum used in the panels is recyclable.

Mr. Fick asked if the at the end of 20 years the project agreement could be renewed.

Mr. Bernstein said the industry is new and technology is improving all the time. It is expected that it will be better to recycle the materials and install new. He said 7 years ago the panels were putting out 240 watts. Panels today are putting out 400 watts. The technology is improving dramatically.

Mr. Fick asked if there any other questions from the Board. There were none.

Mr. Fick opened the hearing to the public for comments or questions.

Ed Abrahams asked about noise levels at the school from the inverters.

Mr. Hankin said they are expected to be inaudible at the property line.

Mr. Abrahams asked about visible height of the panels from behind the fence.

Ms. Angus said nothing will be higher than 8 feet.

Mr. Abrahams said he thought decommissioning estimate is optimistic. He said he has concerns about the noise from the posts being driven into the ground.

Mr. Huntley said the inverters will be inaudible at the property line. In addition the screening and the slats in the fence will decrease any noise.

Mr. Lotti said the Sunderland school is 200 feet from the project and there are no noise complaints. He said the panels also block noise.

Mr. Huntley said it is a condition of the bylaw to have no noise at the property line. We will meet that requirement.

Holly Hamer from Seekonk Cross Road asked how the Town will receive \$25,000 per year in taxes when there is depreciation in the equipment assessed for the personal property tax.

Mr. Bernstein said the equipment is completely depreciated in 5 years. There is a formula used by the assessor. There can be a larger amount paid up front or a calculation to provide a regular tax over the years. We are willing to be flexible and work with the Town. In the end the Department of Revenue will have to approve the agreement.

Ms. Hamer said it appears that the property rises in the back. Is there a guarantee that 7 to 9 feet of screening will block the site?

Mr. Fick said the cedars will grow to 20 feet.

Ms. Hamer asked if it is a condition that the panels will not be visible. Will you condition it?

Mr. Hankin said he is not concerned about the look. He looks at his solar panels every day and does not find them offensive.

Ms. Angus said the bylaw does not require that the panels not be visible.

Ms. Hamer asked if the Town will have right of first refusal when the land is taken out of Chapter 61A.

Mr. Rembold said yes.

Christopher Lee, President of the board at the Rudolf Steiner School read a statement saying the school supports the Coons family. He said there have been conversations with representative from Kearsarge and the board feels that they have the schools interest in mind. He said there are good faith agreements in place. He said the school supports renewable energy. This will be a good opportunity for the students to witness the project.

Mr. Musgrove asked if there were concerns about the pounding of the posts.

Mr. Lee said there are concerns but Kearsarge has worked well with us.

Joseph Burke from 21 Egremont Plain Road said he agrees with allowing for projects like this. He said it allows for open space to remain longer. Mr. Coons keeps his property beautiful. He said he would expect that he will continue to keep his property beautiful.

There were no other public comments.

Mr. Rembold summarized letters and comments from other boards. A letter from the Selectboard dated June 26, 2017 gave a positive recommendation for the project.

The Board of Health sent a letter dated July 6, 2017 that there were no health risks so they did not make a comment or recommendation.

The Conservation Commission had no jurisdictional concerns.

The Agricultural Committee held a meeting on June 29, 2017. Mr. Rembold said he was at the meeting. The Ag Committee made a positive recommendation with the following suggestions:

- That the screening trees be maintained for the life of the project and replaced as necessary
- Any disturbed area be planted with meadow seed mix and pollinator friendly seeds as provided in the matrix of plantings
- The property owner will remove and dispose of the trees at the end of the project due to the viability of the farm land
- No herbicides or pesticides will be used on the site
- A bond or escrow account will be in place to decommission the site for the life of the project

Mr. Fick said the Board is reviewing two applications, the Special Permit and Site Plan Review. Mr. Rembold walked the Board through section 9.12.4.

The Board discussed the visual impact of the project. Six foot high trees will be planted. The trees will grow 1-2 feet per year. Mr. Musgrove said good effort has been made to minimize visual impact.

Mr. Musgrove said he feels a condition needs to be in place to address noise during construction. He said the work hours should be coordinated with the school especially when the noise is audible at the school.

Mr. Hankin said if someone were building a house next to the school there wouldn't be any conditions. This is a construction project.

Mr. Rembold said the applicant agreed to be flexible. Perhaps a soft condition can be part of the permit.

Mr. Fick suggested leaving work hours out and allow Kearsarge to work it out with the school.

Mr. Lotti said he would like to leave the hours as open as possible so we can be flexible, maybe working on weekends.

Mr. Fick agreed the hours should be flexible.

Mr. Musgrove said the land clearing will be minimal. There will be no run off onto West Plain Road.

Mr. Huntley said that is correct. There will be no change to the topography.

The parcel consists of 20 acres of land out of 81.9 total acres. 10.7 acres will be the project area. The project area is 13.8% of the total land and does not exceed the 20% allowed by the bylaw.

There will be no lighting at the site.

The utilities will be underground. There will be 4 utility poles 20-30 feet apart going into the site. The one furthest from the road will be 100 feet from the road. The utilities will be underground from the last pole into the site.

The fence will have a 6 inch clearance from the ground.

The applicant can file a final seed mix and plantings. The Board was satisfied that there are enough options to choose from.

Mr. Fick said Mr. Pachano wants to standardize the seed mix. He asked if anyone feels strongly about it.

Mr. Higa asked if the Ag Committee would have an objection to the seed mix.

Mr. Lotti said the entire site won't need to be done. He said there will be very little to restore. The access road will go back to hay.

Mr. Fick said the applicant has the list from the Ag Committee. They can stick with that recommendation and move Mr. Pachano's list along for future projects.

Mr. Rembold said requirements can be imposed and staff can make sure the requirements are done.

Mr. Huntley said the project could go on line in January. We would not be able to plant at that time of year. That condition could be detrimental to the project going on line. He asked for some flexibility.

Mr. Bernstein said we are not sure when the project will begin because of State incentives.

Mr. Rembold said we don't want a condition to hold up the project.

Mr. Hankin said some trees are best planted in the fall.

Mr. Rembold said there are zoning mechanisms in place to make sure we will get the requirements done. There is no need for additional conditions.

Mr. Fick said the plantings are part of the plan.

Mr. Rembold said the Certificate of Liability Insurance has expired he asked that a new one be provided for the record.

There was discussion about the decommissioning plan and the restoration of the land.

Mr. Musgrove said there is no need for a condition to restore the land that responsibility should be on the land owner.

Mr. Rembold said there is no surety bond provided.

Mr. Bernstein said he is willing to provide a letter of credit. It is less expensive than a surety bond. The letter of credit will be provided before the project is put into service.

The Board agreed that this could be a condition of the permit.

Mr. Rembold asked the Board if they have all the information they need.

The Board said they have all the information. They said another condition as requested by the Ag Committee is to maintain the trees for the life of the project.

Mr. Bernstein said Kearsarge is responsible for maintaining and replacing trees as necessary. This is not an issue.

Mr. Musgrove read through Site Plan Review. There were no issues.

Mr. Musgrove read through Special Permit 10.4 criteria. He said we have been through all of the requirements and we have all of the information needed.

Mr. Musgrove made a motion to close the public hearing, Mr. Hankin seconded, all in favor. The public hearing was closed at 8:52 P.M.

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

The Board discussed the Special Permit with the following list of conditions:

- The applicant will work with the Rudolph Steiner School to coordinate hours of construction
- The applicant will follow the Ag Committee's conditions regarding plantings and seed mixes
- The applicant will maintain the trees for the life of the project
- The applicant will provide a letter of credit

--The applicant will follow the bylaw as approved by the Attorney General
Mr. Musgrove made a motion to approve the Special Permit with the conditions, Mr. Hankin seconded.

Role call vote:

Mr. Higa aye

Mr. Musgrove aye

Mr. Hankin aye

Mr. Fick aye

The Board took a short break.

Ms. Nelson resumed the chair. She proposed moving item 4 to the next meeting.

COMMUNITY PRESERVATION ACT INPUT:

Mr. Rembold said the CPC met on Tuesday to make revisions to the draft. The changes added more meat for the needs of the Town. There will be a public hearing on August 7. Mr. Higa will send the draft to the members so comments can be made at the next meeting.

Mr. Higa said the CPC recommends that 30% of the CPA funds would go to housing.

Mr. Rembold said the Municipal Affordable Housing Trust would have \$150,000 per year.

Mr. Fick asked what the Trust will do with the money.

Mr. Higa said the Trust would not have to be specific about what the money would be used for but they will have to apply.

Mr. Hankin, a member of the Great Barrington Affordable Housing Trust, said the money could be used to support developers of affordable housing such as CDC or Construct or to purchase distressed properties.

Mr. Fick said he is opposed to the Trust not having to provide what the money would be used for.

Mr. Rembold said more ideas will come forth. The CPC would bring the ideas to the Annual Town Meeting. After a few years there may be enough trust in the Trust to allow them to act as they see appropriate.

Mr. Fick said he does not like it.

Mr. Higa said the Trust can act on things more quickly than the CPC. If something comes up they could act immediately with the money, \$50,000, that they currently have available.

Mr. Fick said he thinks the CDC and Construct need to go through the Annual Town Meeting.

Mr. Hankin said if there is a foreclosure we could act right away.

Ms. Nelson said she wanted to curtail the discussion. She suggested going through the draft and reading the Housing Trust Fund bylaw.

Mr. Higa said the Trust has a level of experience that the CPC does not have.

Ms. Nelson said we will learn how the Trust interfaces with the Town and the CPC.

TOWN PLANNER'S REPORT:

Mr. Rembold said the Board will have a special permit for the rear lot provision allowing for the creation of a new building lot. He recommended a site visit. Mr. Musgrove said he did not expect to be at the meeting.

The Board scheduled a site visit at 154 Castle Hill Avenue at 6:30 PM on July 27.

Mr. Rembold gave an update on Barrington Brook. He said 16 of the 24 condo units have been completed. He said there are two issues to follow up on.

--One unit owner has requested a sizable bump out that encroaches into a delineated open space. Mr. Rembold said he went to the site to look at it. He said the open space is a debris field 50 feet from the edge of the forest. He said it is already a disturbed area. He suggested that one space could be swapped for another. It will be investigated and figures will be prepared for the Board's consideration in amending the definitive plan.

--In Phase 2, 10 of the 16 lots are held in a covenant until the infrastructure is completed. The owner would like to sell more than six lots up front so if possible. Ten lots are under the covenant and we need to know if only five lots would be enough to cover the cost of the infrastructure. Mr. Rembold said he would discuss it with the Developer and the assessor and bring the information to the Board.

Mr. Fick asked what the cost would be for.

Mr. Rembold said the completion of the road and associated work and utilities.

Mr. Hankin asked if the pool was built.

Mr. Rembold said no, it has been roughed in.

Mr. Musgrove said he had a conversation with Richard Stanley who suggested a forum to discuss how the Town can be protected from being taken over by real estate/bank/lawyers' offices. The goal is to promote retail.

Ms. Nelson said he also called her. She said the focus should be on implementing the Master Plan. She said the next natural time for a forum would be when the Master Plan is updated. She said she can't see a way to regulate tenants.

BOARD & COMMITTEE UPDATES/ISSUES & CONCERNS:

There was nothing presented.

CITIZEN'S SPEAK TIME:

No one spoke.

Mr. Higa asked if Mr. Pachano's plant list could be forwarded to the Ag Committee. Ms. Nelson said she would forward it.

Having concluded their business, Ms. Nelson adjourned the meeting without objection at 9:25 P.M.

Respectfully submitted,


Kimberly L. Shaw
Planning Board Secretary