



# Town of Barnstable Planning Board



[www.town.barnstable.ma.us/PlanningBoard](http://www.town.barnstable.ma.us/PlanningBoard)

Board Members

Steven Costello – Chair    Stephen Robichaud – Vice Chair    Mary Barry - Clerk    Robert Twiss    Michael Mecenas    Raymond Sexton    Tim O’Neill

Mathew Levesque – Town Council Liaison

Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director

Kaitlyn Maldonado, Assistant Director

James Kupfer, AICP, Senior Planner

Karen Herrand – Principal Assistant - [karen.herrand@town.barnstable.ma.us](mailto:karen.herrand@town.barnstable.ma.us)

## Town of Barnstable PLANNING BOARD Minutes January 10, 2022

Steven Costello – Chairman	Present
Stephen Robichaud – Vice Chairman	Present
Mary Barry – Clerk	Present
Robert Twiss	Absent
Michael Mecenas	Present
Raymond Sexton	Absent
Tim O’Neill	Present

*Also in attendance via remote participation were Planning & Development Staff; Elizabeth Jenkins, Director, Kaitlyn Maldonado, Assistant Director, James Kupfer, Senior Planner, and Karen Herrand, Principal Assistant.*

The Planning Board’s Public Hearing will be held at 7:00 p.m. by remote participation methods. Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>
2. Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:

Link: <https://zoom.us/j/97815480735>

Phone: 888 475 4499 US Toll-free

Meeting ID: 978 1548 0735

3. Applicants, their representatives and individuals required or entitled to appear before the Planning Board may appear remotely and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting so that they may be displayed for remote public access viewing.

Application materials may be accessed by contacting [Karen.herrand@town.barnstable.ma.us](mailto:Karen.herrand@town.barnstable.ma.us) or calling 508-862-4064.

**Call to Order**

Introduction of Board Members and Staff Members

**Attendance Roll Call**

**Steven Costello**

**Stephen Robichaud**

**Mary Barry**

**Michael Mecenias**

**Tim O'Neill**

**Notice of Recording** This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

**Public Comment**

**Chair Steven Costello asks if there is any general public comment – None.**

**Zoning Amendments:**

**Zoning Amendment TC Item No. 2022-034** - Proposal to amend the Town of Barnstable Zoning Ordinance by amending the code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning by expanding the Ground-Mounted Solar Photovoltaic Overlay District to include the property located at 810 Wakeby Road, Marstons Mills (Assessors' Map 013 Parcels 004, 005, 052) and by requiring a Special Permit for large-scale ground-mounted solar photovoltaic installations located within any residential district located within the overlay district. – *continued from November 8, 2021, and December 13, 2021*

(Public Hearing) (Majority of members present and voting for recommendation to Town Council)

Elizabeth Jenkins states that Staff has been working on the ordinance, calls with ER personnel and Cape Cod Commission (CCC) and DPW on provisions to be additionally incorporated. Draft ordinance as it stands – this is an ongoing conversation and still working on provisions regarding battery storage.

Chair Steven Costello clarifies that these updates aren't to this particular parcel but town wide.

Jim Kupfer - map amendment is for this parcel, but correct if this zoning amendment to pass by the Board is looking for an amendment anywhere where expanded with special permit criteria being established for a process for it. The map is for this location only at this time.

Jim Kupfer shows/screen shows the ordinance itself – Exhibit A:

Review of – Staff has been working with a lot of different stakeholders with this.

Comments from all and concerns. Solar storage – framing this information for an ordinance for the Board to review.

Chair Steven Costello asks if posted on Planning & Development site?

Kate Maldonado replies, she will make sure it is if it's not.

Jim Kupfer, review of draft ordinance. Exhibit A - special permit criteria. Have added some definition language. Site plan application and review information, expansion of. Battery energy storage systems. Energy storage system as the primary use, not accessory use. Dimensional requirements – site walk, mindful of where abutters are. Set back has been expanded to 100 ft. Maintain a minimum of 100 ft. setback. Can consider that maybe this is not enough, but this is the minimum being proposed. Screening language expanded – CCC, more opportunities for this. Site Plan Review and special permit criteria. Request to expand the map into underlying zoning so special permit is going to be required. More stringency, hold new proposal to a higher standard. Spot by spot analysis. Screening, Board can

look at this, see how impact abutters. No. 7 and 8 – materials and impact of battery storage. Hazardous material section – operation and maintenance plan. Will provide some surety and protect community at large. Safe manner and safety compliance plan, erosion control plan. Staff is working with DPW for town wide storm water ordinance currently, this will be a place to beef this up. Water quality from the site and maintain and recharge into the ground safely. Safe use in this location – standards and procedure. Mostly for consideration of battery storage. Site Plan – accessory use added an abandonment and decommission of battery storage. Battery is different than solar, has a different life and decommission. This is a draft of how it stands today.

Attorney Michael Ford in attendance. Representing TJA. Hoping that the Board would have something a little further along. Commend the rewrite of the ordinance, particularly battery storage. Does have some additions he will send to Staff. Pg. 9 of proposed ordinance under special permit, no. 7, second paragraph seeks to put a limit on the amount of hazardous materials on the site. The reference should be to hazardous waste, not the materials. Groundwater Protection (GP) overlay zones, this is in zone 2, GP zone, the same language is in that zone only it uses hazardous waste, not materials. Good amendment, ties battery storage to building and fire code. Requiring both admission and decommissioning plan. Bylaw prohibits as primary use battery storage should only be as a compliment to the solar use. Battery storage is allowed by DEP in zone 2, not in zone 1. Maybe leaving a lot of the details to move forward as this will change with Bldg. Commissioner to add in. He has some additional info he will pass along.

#### **Public Comment**

Anne Salas in attendance. Storage batteries are continuously running, this is a continual danger. She gives an example of an explosion that had happened in Chicago. Hazardous materials are all comprised of hazardous materials. Advocate the use of materials not waste. Can restrict zone 2 from this danger. Zone 2 water protection, snow spoils because of salt are not allowed in this zone. How can 100 ft. even be safe from an explosion that can burn for many days. Has grave concern with Attorney Ford speaking with Planning Board members. Has concerns with board members discussing and legalities of. People that live next to this – can't imagine anyone compromising for their safety. Opposed.

Chair Steven Costello states that they are very careful not to violate any open meeting laws. There is no influence to this Board. Planning & Development has made significant changes to the ordinance. Information gets forwarded to us in a timely matter. Don't anticipate any Planning Board member being dissuaded as we are here for the benefit of Barnstable, doing in the best interest of, he guarantees that.

Mary Berkinshaw, abutter. This is scary situation for us. Feels that a piece of this is getting lost. She is 40 ft. from the property line. This is concerning and not knowing about the battery storage, it's difficult. We would have liked to join in the site visit as well. This property should be used for what the zoning is as we are. A lot of things that would enhance the town. Doesn't think this project is appropriate. 100 ft. will not protect my house. Only one point of access. Opposed.

Abutter - Why is this property being used for this, in this area. A solar array to be going here, don't understand. Shocked that the Attorney was out on a site tour. TJA is suing the town, nobody else got to go on this tour, looks inappropriate. Opposed.

Chair Steven Costello there was not a lot to the site visit itself but to get a reference to where the property lines are and the abutters.

Gordon Starr in attendance. Last meeting somebody talked about two Sandwich abutters near this lot.

Jim Kupfer replies that all abutters are notified of the public hearing.

Gordon Starr – it is connected, other areas, concerned with wildlife in the area, cannot pass through it. Mitigation with a big development, maybe some of this energy could be put aside for needy - could get benefits from this project.

Elizabeth Jenkins replies that a raise of the fence to be at a certain level to allow for habitat value of the site. Mitigation, it's a little bit different, this would be CCC's review and subject as such to their requirements.

Chair Steven Costello this is a unique scenario and is being vetted

**Chair Steven Costello entertains a motion to continue, moved by Mary Barry to continue to February 14, 2022, seconded by Tim O'Neill,**

**Roll Call Vote:**

**Steven Costello - aye**

**Stephen Robicaud - aye**

**Mary Barry - aye**

**Michael Mecnas - aye**

**Tim O'Neill - aye**

Attorney Ford there states that there is pending litigation with this. Part of the report is about this Planning Board hearing. Time is an important factor.

**Matters Not Reasonably Anticipated by the Chair**

**Approval of Minutes**

December 20, 2021, draft minutes

**Chair Steven Costello entertains a motion to approve the draft minutes of December 20, 2021, moved by Mary Barry, seconded by Stephen Robicaud,**

**Roll Call Vote:**

**Steven Costello - aye**

**Stephen Robicaud - aye**

**Mary Barry - aye**

**Michael Mecnas - aye**

**Tim O'Neill - aye**

Chair Steven Costello asks for an update with the Local Comprehensive Plan (LCP).

Elizabeth Jenkins explains: Go through every 10 years re the rate of growth and infrastructure for all 7 villages, have started a conversation for adopting a committee. Town Manager sent for an establishment for a committee. Authority under CCC Act. Process set forth to have town manager work with Appointments Committee, chair review applications – memo has been under public review, took comments on that memorandum. Presented to Town Council (TC) last Thursday so could discuss and see draft that incorporates changes based on public comment. Under review of town manager.

Chair Steven Costello – Assistant Town Manager Andy Clyburn and Short term rentals. Suggests all get a copy of the report. A lot of discussion with public and what short term rentals mean (STR). Two percent in the town are STR, 90% are local owners. 14 operate 2. This speaks to who in the community are operating. This is important to know what that means and the data points.

Mary Barry agrees, this is a very informative report.

**Future Meetings:** January 24, 2022, and February 14, 2022, @ 7:00 p.m.

**Adjournment**

Chair Steven Costello entertains a motion to adjourn, moved by Mary Barry, seconded by Michael Mecnas,

**Roll Call Vote:**

**Steven Costello - aye**

**Stephen Robichaud - aye**

**Mary Barry - aye**

**Michael Mecnas - aye**

**Tim O'Neill - aye**

The meeting adjourned at 7:55 p.m.

Respectfully Submitted

Karen Herrand, Principal Assistant, Planning & Development

Further detail may be obtained by viewing the video via Channel 18 on demand at  
<http://www.town.barnstable.ma.us>

**List of Exhibit Documents**

**Exhibit A -** Zoning Amendment TC Item No. 2022-034 – Draft ordinance