



Town of Barnstable Planning Board



www.town.barnstable.ma.us/PlanningBoard

Board Members
 Stephen Robichaud – Chair Robert Twiss – Vice Chair Tim O’Neill - Clerk Mary Barry Michael Mecnas Raymond Sexton
 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

Town of Barnstable PLANNING BOARD Minutes May 22, 2023

Stephen Robichaud – Chairman	Present
Robert Twiss, Vice Chairman	Present
Tim O’Neill – Clerk	Present
Mary Barry	Present
Michael Mecnas	Present
Raymond Sexton	Present

Also in attendance were Planning & Development Staff; James Kupfer and Karen Herrand, Principal Assistant.

Call to Order Introduction of Board Members and Staff Members

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 Stephen Robichaud asks for any general public comment. None.

Special Permits

TJA Clean Energy has submitted an application for a Special Permit pursuant to the Town of Barnstable Zoning Ordinance §240-44.2 Ground-Mounted Solar Photovoltaic Overlay District for construction of large scale ground mounted solar photovoltaic installation at 810 Wakeby Road, Marstons Mills, MA 02648, *continued from April 24, 2023*

Chair Stephen Robichaud gives an update – Planning Board did a site walk in small groups.

Attorney Michael Ford in attendance. Brendon Reali, Environmental Scientist, Atlantic Design Engineers, Inc. in attendance.

Attorney Ford gives an update of some concerns voiced by the public. Have submitted depth to groundwater analysis and reviewed by DPW. There is a water well on site. Option for irrigation – has a pump and in operating condition, able to be used. Comment from COMM water district. Haven’t

received detailed design for the containment for the transformer areas. Third party detail. Will install whatever is approved by the Town. Lt. Hall also did a site visit. Zoning Board of Appeals (ZBA) modification permit issued has become final. Will record this.

Town Attorney Charles McLaughlin. Legal memorandum sent to Planning Board. ZBA went through their ordinance with respect to bulk regulations. Set back requirements. Amended overlay district enacted last year.

Tim O'Neill asks for summary of Chapter 40 A – approval or denial for project.

Attorney McLaughlin – legislature recognized some types of projects should be brought forth – Chapter 40A, sec 3 is a project that may proceed as of right, without the need for zoning relief – The Dover Amendment. Has been applied with housing and housing initiatives. Housing appeals committee has right to override the town. This is a new area of law. What roles boards should play. Zoning enactment is moderated to allow the municipality to consider matters related to health, safety and welfare. This is one step further, to be as of right, until matters of health, safety and welfare/considered. Case in Waltham, Land Court – large scale project, ZBA denied a permit to go through. Court adopted need a roadway to get access. Looked at ordinance that had been enacted 10 years before.

Jim Kupfer, DPW info received late today. Drainage review- storm water related matters. Width of the road has changed. Depth to groundwater review. Recommends to speak to Applicant and to meet that one ft. standard. It isn't of great concern diversion of runoff would go into basin 3, from one basin to another. Monitoring goal - 2 ft. 4 is preferred, 6 has been found and reviewed by DPW. This is posted online as well. Notes also from Lt. Hill and info in regards to fire hydrant location.

Chair Stephen Robichaud asks what basins are, concrete?
Jim Kupfer, no, water runs off and into the ground.

Brendan Reali, treatment is allowing water to settle and solids filter naturally within the soil. That's why distance is good.

Attorney Ford, freeboard shortage. Are able to make the basin deeper, a ft. deeper would be done.

Ray Sexton – soil evaluation notes.

Tim O'Neill, MH numbers are delineating, natural not man made structure. Water flows and capacity to perk into the ground. Explains what DPW information states. Engineer's review.

Brendan Reali, marling wells, pvc pipes driven into the ground. Basin discussed would flow into another on site.

Tim O'Neill – pipes underground. Fluid for transformers, concerned of that getting into a water source. 6 ft. is minimum of what will be maintained.

Ray Sexton, site walk was enlightening. Vegetation screen and how deployed. What lives in the bear hole? What is living there and take measures necessary to move it. May be inhabited. Would like to have it looked at and deal with.

Chair Stephen Robichaud – conditions – wants to look at the construction time line and what times of day. Hazardous materials, detailed list of that? Draft Condition No. 6, like this language. Containment plan language. Abandonment – language put in for, using any and all best practices of the time for any

recycling. Shutting off power to the site and how fire dept. can work. Maintenance plan, Condition No. 22. A shut down.

Attorney Ford, as he understands this has an automatic shut off which is monitored. If detects any problems, it is automatically shut down.

Jim Kupfer, maybe provide something more specified and work with the Applicant.

Chair Stephen Robichaud, a remote shut off?

Ed Switzer, Catalyse, LLC in attendance. He gives an explanation of how the system will work for a shut down. Eversource has been involved. Also, work with Fire Dept. and do a walk through once ready to start up. Monitoring will be constantly done.

Chair Stephen Robichaud clarifies 24 hours a day monitoring. Have you seen any emergencies?

Ed Switzer, no, but some are with the wiring/performance.

Chair Stephen Robichaud, what triggers alerts, fire loss?

Ed Switzer, generally they know, heat sensors throughout the array. This is how monitored, a higher temp.

Chair Stephen Robichaud, could there be a fire without you being notified?

Ed Switzer, some, but power is cut to the site.

Bob Twiss, is there a failsafe with attempt to shut down system, is there a back up?

Ed Switzer, yes, Eversource would do this.

Tim O'Neill, remote monitoring and remote controlling, how done?

Ed Switzer, cell phone link. His company would be monitoring.

Chair Stephen Robichaud - the grade change noticeably at the site visit. Erosion control possibility of these measures failing, due to intense rain?

Brendon Reali, there is a possibility, will do a swift report. Someone goes out and inspects and puts together any failures – report put together and then fix and find solution.

Attorney McLaughlin, this industry and transition, can make some language for. Would like a qualified firm to maintain.

Chair Stephen Robichaud, hydro seeding to be done? is the grass to be maintained, kept natural?

Brendan Reali, yes, the interior of the array all the way to the entrance. Anything graded will be done.

Brendan, groundwater protection area – check grass when do inspections. This is part of the erosion control. Probably case by case for fertilizer.

Jim Kupfer, Cond. No. 19, does discuss this, to not use fertilizers and pesticides.

Bob Twiss, thanks to Staff and other Town agencies that have worked on this, as well as Applicant and counsel and Town Attorney. This has all been a huge amount of work. Site walk was helpful. Now that we have had some more information. Cond. No. 18 and 20 dealing with screening and vegetation.

Tim O'Neill, thanks Staff and all involved. Good to see the site and to put into perspective. Site is definitely not serving it's best use. Eye sore and a lot of problems in the past with this property. He still has some questions. Site water for irrigation, glad to hear well on site. Dust control during construction concerns. Construction times/nuisances. Sequence of project/phases. Removals, earthwork, installation.

Brendan Reali, will begin with removing any existing items. Stake a limit of work to identify. Grading would be done. Complete test pits in the basins to get correct soil types. Size of basins if need be. Installation of piers for racking, steel beams. Installation of panels, another crew behind them doing the wiring. Pour the foundations and equipment pads, grading for road and install fence. Runs get tied into the transformers and then final inspections.

Ray Sexton, removal of items – any tests in soil from leaking /contamination?

Brendan Reali, yes during removal/construction process of signs/smell, sheen that could be contaminated, soil is then evaluated. Screening would be installed initially.

Chair Stephen Robichaud, could Cond. No. 4 have these specifics regarding hazardous materials.

Jim Kupfer, yes.

Tim O'Neill – berm work and screening done before?

Brendan Reali, grading would have to be completed first.

Tim O'Neill, installation of piles for panels – driven in? How long of this phase of work? Designed/included in final bldg. permit? Pile driving can be noisy, should look at the hours that this is to be done.

Brendan Reali, one to two months, guessing.

Ed Switzer, typically use driven pile – then working on the foundation.

Mary Barry, surety, Cond. No. 23, on abandonment – changing hands of. The surety follows the project? Down the road, will it still follow that 125% cost based on cost at the time?

Jim Kupfer, 125%, the final security would be in a form acceptable to the Town's Attorney's Office.

Mary Barry, surety given in some type of a bond, how does that change, the funds change over time?

Attorney McLaughlin replies, we now require a divine process, about every 5 years revalued. Go to the trades and equivalents, state manuals for particular trade and then translate into a 5 year window plus a growth factor as measured by CPI. Re statement, i.e., bonds, cash.

Mary Barry, agrees with having a time for construction. Upgrade process. Technology changes. How to revamp the whole system. Thanks all and the community as well.

Ed Switzer, model the project using currently proposed, if meeting all requirements no need to upgrade unless financial reason to do. Can't put any other than ground mounted solar arrays. If any major change, then would have to go through permitting process.

Jim Kupfer, replacement of panels would be building permit needed or Board of Health (BOH), would depend on the size and materials.

Ray Sexton, site security, Cond. No. 21 – how will physical access and control be done? Provisions for on site monitoring, sensors? We do have domestic terrorism going on now. Take into consideration this problem. Detection and then response be taken into consideration.

Attorney Ford, Cond. No. 21 is fine with us now.

Chair Stephen Robichaud, this road shall be cleared of snow, trees, limbs etc. within 24 hours.

Chair Stephen Robichaud asks for any public comment.

Anne Salas in attendance, 145 Mockingbird Lane. In opposition. What if toxic materials are in the soil. Breakage of panels, what would be the solution. Not profitable to recycle solar panels, no provision for hazardous waste disposal. 9 to 5 are hours that Tracer Lane project had. Would like berms be in place and tall enough for a fire break and also as recommended by National Fire Protection/fire walls in between transformers, and the solar panels. Concerned about hazardous material list and why not possible to have one. Every solar panel manufacturer has this. Need it to comply with Mass DET and to protect our water supplies. Bond, adequate needs to be submitted to get the real dangers to the public and the noise emissions, section 5c, amended decommissioning plan. We really don't know – no specific components. TJA proposal and bond. Safety of water is of great concern. Fire Dept's will be overwhelmed. Pacemaker persons cannot come into contact. Not an acceptable risk.

Mary Burkinshaw, 133 Mockingbird Lane in attendance. In opposition. Terrorist – her house has been hit by gunshots, all the time, hunting, trails, coyotes live out there. Dredging spoils, nothing grows there. Anything to grow would require 1 or 2 ft. to establish a root system. Screening, how will trees grow with no top soil? Construction concerns.

Cody Jones, 111 Mockingbird Lane in attendance. In opposition. Residential zoning. Why have zoning if not abiding. Noise concerns. Take residents into consideration.

Kathryn McDonough in attendance, for Christine McDonough. In opposition. Location is wrong. Maintenance of berm. Glare concerns. Dust and poor air quality. Protective barrier? Why were all trees removed in the first place. Potential environmental hazards.

Kathryn McDonough, Mockingbird Lane. In opposition. Owner did not keep land viable/useable. Incomplete proposal. Many unanswered questions. Concerns with dust and noise and wildlife.

Stephen Hukalowicz, 26 Dove Lane. In opposition. Concerns with health, safety and welfare. Building something in a sandpit bowl will affect the groundwater. Doesn't think this is right location. Concerns with fire issues. Noise issues.

Nancy Minnigerode, 95 Biscayne Drive in attendance. In opposition. Noise, health concerns.

Town Councilor Kris Clark in attendance. Thanks all for hard work, staff and public. Basins, accumulation, will there be a schedule for cleanings? How will vegetation be addressed along the way? Basins, may be dredged, where will spoils go? Array of security cameras on site?

Anne Salas, Lt. Hill said repeatedly that they would never participate in an emergency shut down for this.

Attorney Ford – stormwater management plan does have the maintenance for these basins. Cameras/security – will have to think about something for this. Most comments directed to the history of this site. This will be a well run facility. Doesn't think the plan is going to have multiple owners/revolving ownership. We'd have to come back for any modification to a special permit/modification to equipment etc.

Chair Stephen Robichaud asks about equipment to be removed?

Brendan Reali, on site plan or on decommissioning? Have gone by the outline from the Town. Based on the prevailing wage for journeyman electrician, that is what was provided to us.

Jim Kupfer, decommissioning will be subject to Town Attorney's Office review and approval. Number of site items that seemed to be missing. Removal of all from the site.

Chair Stephen Robichaud entertains a motion for 5 minute recess, seconded by Mary Barry,

Roll Call Vote:

Ray Sexton - aye

Mary Barry - aye

Bob Twiss - aye

Tim O'Neill - aye

Mike Mecnas - aye

Stephen Robichaud - aye

Review of Draft Conditions – 1 through 27 – discussion on changes/amendments to the Draft conditions. Exhibit A.

Ed Switzer, timeframe – development permits and time line, they foresee 6 to 8 months.

Chair Stephen Robichaud entertains a motion to continue to June 12, 2023, moved by Ray Sexton to continue Special Permit 2023-002, 810 Wakeby Road to June 12, 2023 at 7:00 PM at the Barnstable Town Hall, 367 Main Street, Hyannis, MA, James H. Crocker, Jr., Hearing Room, 2nd Floor, seconded by Michael Mecnas,

Roll Call Vote:

Mary Barry - aye

Bob Twiss - aye

Ray Sexton - aye

Tim O'Neill - aye

Michael Mecnas - aye

Stephen Robichaud - aye

Staff Updates

Local Comprehensive Plan

Assistant Director, Kate Maldonado in attendance. She gives an update. Seeking review and comment. Had two meetings with key themes of data and public outreach. All feedback that has been received from workshops, values, priorities and visions. Comments can be submitted online or drop off or mail. Subcommittee working through comments received. Next meeting, Thursday, June 22nd in Hearing Room.

Correspondence

Notice of Chapter 91 – Jacobson – walkway and pier – 340 Hollidge Hill Rd., Barnstable

Matters Not Reasonably Anticipated by the Chair

Approval of Minutes

May 8, 2023 draft minutes

Chair Stephen Robichaud entertains a motion to approve, moved by Tim O’Neill, seconded by Mary

Roll Call Vote:

Mary Barry -aye

Ray Sexton - aye

Bob Twiss - aye

Tim O’Neill - aye

Michael Mecnas - aye

Stephen Robichaud - aye

Future Meetings: June 12 and June 26, 2023, @ 7:00 p.m.

Adjournment

Chair Stephen Robichaud entertains a motion to adjourn, moved by Bob Twiss, seconded by Michael Mecnas,

Roll Call Vote:

Mary Barry - aye

Tim O’Neill - aye

Bob Twiss - aye

Ray Sexton - aye

Michael Mecnas - aye

Stephen Robichaud - aye

The meeting adjourned at 10:18 p.m.

Respectfully Submitted
Karen Herrand, Principal
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 - Draft Conditions 1 – 27 - Special Permit No. 2023-02 - Ground-Mounted Solar Photovoltaic Overlay District for construction of large scale ground mounted solar photovoltaic installation at 810 Wakeby Road, Marstons Mills, MA

APPROVED