



**TOWN OF WESTPORT**  
**856 Main Road**  
**Westport, Massachusetts 02790**

**Tel. (508) 636-1037**  
**Fax (508) 636-1031**

## **PLANNING BOARD**

### **PLANNING BOARD MEETING MINUTES**

**July 9, 2019**

Chairman James T. Whitin called the meeting to order at 4:00 p.m. with Vice-Chairman Robert Daylor, Members John Bullard, James Watterson, David Cole and Town Planner James Hartnett in attendance.

#### **4:00 p.m. Public Hearing**

1. Request by the applicant for a modification to a definitive subdivision plan entitled **“Definitive Subdivision Record Plan Lincoln Heights”** dated November 6, 2014, and recorded in Book 178, Page 74. Modifications are shown on subdivision plan entitled: **“Lincoln Heights Revised Drainage Layout Plan of Land in Westport, MA”** prepared for Scott and Jodi Holmes dated April 12, 2019, Assessor’s Map 32, Lots 6-15, 28, 36A located at the South End of Lincoln Avenue, proposing modifications to the drainage design.

Dan Gioiosa from SITEC Engineering was present on behalf of the applicants Scott and Jodi Holmes. Gioiosa stated that the plans have been revised to address comments from SW Cole and the Planning Board. He noted that the only outstanding item with Cole was new test pit data in the location of the drainage ponds. Gioiosa stated that the bottom elevation of the ponds is at the same elevation from the previously approved plans and that design was based on test pits.

Whitin asked Hartnett to read the department comments into the record. Hartnett stated that there is a review letter from SW Cole dated May 5, 2019, a response letter from SITEC and a new review letter from SW Cole dated July 2, 2019. Hartnett read the new Cole letter into the record. Whitin asked about the test pits and pond elevation and Gioiosa stated that they are at the same elevation as the previous design.

Hartnett read the sample conditions into the record.

#### **Sample Conditions**

The drainage design is based on a gravel road and any additional pavement from what is shown on the modified plan shall require Planning Board approval.

Endorsement of the approval is conditional upon the provision of a performance guarantee, duly executed and approved, to be noted on the plan and recorded with the Bristol County Southern District Registry of Deeds, said form of guarantee may be varied from time to time by the applicant subject to agreement on the adequacy and amount of said guarantee by the board.

All prior conditions of approval shall remain in full force and effect until such time as they are met. Pursuant to Massachusetts General Laws, Chapter 41, Section 81-W, this Modification shall take effect when: (1) the plan as originally approved, or a copy thereof, and a certified copy of the vote of the planning board making such modification, and any additional plan referred to in such vote has been recorded, (2) an endorsement has been made on the plan originally approved as such vote is indexed in the grantor index under the names of the owners of record of the land affected. The cost of recording shall be at the expense of the applicant in the case of Modification.

The Modification of the approval of this plan shall not affect the lots in the subdivision which have been sold or mortgaged in good faith and for valuable consideration or any rights appurtenant thereto, without the

consent of the owner of such lots, and of the holder of the mortgage or mortgages, if any, thereon. Written consent from said owners and mortgages, if any, are attached hereto.

### **Motion**

Daylor made a motion to modify the approval of the definitive subdivision plan of land entitled: Proposed Definitive Plan Lincoln Heights by: Civil Engineering Concepts, Inc. dated: November 6, 2014 and revised through February 17, 2015 recorded in at the Bristol County Southern District Registry of Deeds, Plan Book 178, Page 74 for land located at terminus of Lincoln Avenue. Modifications include changes to the drainage design and configuration of drainage easements. Said modifications are shown on the approved plan entitled: **Lincoln Heights Revised Drainage Layout Plan of Land in Westport, MA** prepared for **Scott and Jodi Holmes**, dated April 12, 2019, and revised through July 3, 2019.

2. **Approval Not Required (ANR)** Sharon L. Raposa, Trustee of the Anthony P. Raposa Trust (19-010A). Request by the applicant to divide Lot 5 into two lots for land located at 1044 Main Road, Map 55 Lot 5.

A letter was submitted from Attorney Brian R. Corey, Jr. dated July 9, 2019, stating that he could not make the meeting and requested the Board approve the plan. If the Board had questions, he asked that the matter be scheduled for another meeting.

Whitin asked Hartnett to present the plan to the Board. Hartnett stated that the lot has two residential structures; the southerly single-family dwelling was built prior to 1938 and according to the assessor's records, the northerly house was under construction in 1944. Both structures were existing prior to the Town's adoption of the subdivision control law on December 3, 1958. Whitin asked about the lot abutting the property to the south. Hartnett stated that the building inspector made a zoning determination (dated April 9, 2019) that the lot was a separate buildable lot. Lot 1 would have 19,339 s.f. with 125.95' of frontage and Lot 2 would have 14,888 s.f. with 100' of frontage. Both lots do not meet current zoning standards but the plan meets the minimum requirements for endorsement as approval not required.

### **Motion**

Cole made a motion to approve endorsement of the plan entitled "Plan of Land Assessor's Plat 55 Lot 5, Westport, MA" prepared for Sharon Raposa, dated June 10, 2019, because the plan complies with the provisions of MGL Ch. 41 Section 81P. Seconded by Bullard with all five members in favor.

3. **SunRaise Development LLC (19-002S-LID)** (*Hearing continued from February 26, 2019, April 23, 2019, May 28, 2019 & June 18, 2019*) Hearing Closed on June 18, 2019.

Request by the applicant to consider the Special Permit and Site Plan applications for **SunRaise Development L.L.C** for property owned by Manuel III and Carolyn Ferry, located at 136 Old Pine Hill Road and White Oak Run, Assessor's Map 43, Lot 29. Pursuant to Westport Zoning By-Laws Article 20 Low Impact Development and Article 24 Large Scale Solar Energy System, the applicant requests permission to construct a solar energy system, approximately 2.0 Megawatts.

Whitin read the notice into the record and stated that the public hearing was closed on June 18, 2019, and asked Hartnett to review the status of the design and information. Hartnett stated that Fields A & B are located in the existing farm fields and Fields C & D are located in wooded areas. He spoke with Chris Capone earlier in the day and stated that there is still an open file with the conservation commission that was appealed to MassDEP. Field D has been reduced in size and moved further away from residential properties and there is additional screening that will be planted.

Cole stated that he has reviewed the LID By-law and does not believe that the proposed design meets the design standards listed in the Low Impact By-law. He does not support the location of panels in Field "D".

Daylor requested that the Board consider the LID application first because the Solar Special Permit requires a LID filing.

Hartnett read sample findings and conditions into the record.

**Findings of Fact:**

1. The project as presented meets the requirements of section 24.3 of the Town's Zoning By-Laws for Large Scale Solar Energy Systems.
2. The project as presented meets standards for placement, design, construction, operation and minimizes impacts on environmental, scenic, natural and historic resources.

**Conditions:**

1. Prior to issuance of a building permit the applicant shall submit the following to the building inspector:
  - i. An emergency response plan showing all means of shutting down the solar installation.
  - ii. Name and contact information of the person answerable to inquiries throughout the life of the installation.
  - iii. Proof of liability insurance throughout the life of the system.
2. The Fire Chief shall review and approve the emergency response plan and site access plan prior to the issuance of a building permit. Site access shall be maintained to a level acceptable to the Fire Chief as provided in the emergency response plan. The petitioner and/or any subsequent owner are responsible for the cost of access road maintenance. All access codes and keys shall be provided to the Fire Chief.
3. The applicant shall install a Key Lock Box on the entrance gate to provide for emergency access for the Westport Fire Department. The entrance gate shall be a minimum of 20' wide.
4. The address shall be posted at the beginning of the driveway at Old Pine Hill Road as required by the Westport Fire Department.
5. As-built plans shall be submitted and approved by the building inspector and the planning board prior to issuance of an occupancy permit.
6. All material modifications as determined by the Building Inspector for the Large Scale Solar Energy System made after the issuance of the required building permit shall require approval by the Planning Board.
7. All construction activity shall occur between the hours of 7 a.m. and 5 p.m. on Monday through Saturday only. Construction activity includes staging, deliveries, equipment warm up, or other supporting construction activities.
8. Once the project is complete, there will be no outside storage of equipment, hazardous materials or excess solar panels within the solar sites.
9. Vegetation control relating to the solar project shall be mechanical only and no pesticides or other chemical products shall be used.
10. A non-illuminated sign not exceeding four square feet in area shall be installed on the entrance gate identifying the owner and/or operator of the solar installation and a 24-hour emergency contact telephone number.
11. The site shall be developed in accordance with the erosion control notes listed on sheet 6.1 of the plans. Prior to construction, the applicant shall submit a construction Stormwater Management Plan to the Planning Board for review and approval.

12. If the owner and/or operator changes, notice shall be given to the Building Inspector, Fire Department and Planning Board with the contact information of the new owner/operator within one month of the change in ownership and/or operations.
13. Prior to the issuance of the occupancy permit, the Town Planner shall conduct a field inspection of the perimeter to identify areas that may need additional plantings for screening. The owner shall install plantings as directed by the Town Planner.
14. Prior to the commencement of work, the approved plan shall be submitted to the Board's Consultant Engineer. The Applicant shall be responsible for reasonable cost associated with construction observation/inspection services during the construction phase.
15. If rocks are encountered and need to be removed, they shall be trucked off-site and not crushed on site.
16. Prior to tree clearing all areas designated as "No Cut Zone" shall be clearly marked and reviewed by the Town's Consultant Engineer.
17. Topsoil shall not be removed from the site and shall be reused to prevent erosion and support pollinator-friendly habitat vegetation. Additional suitable organic material may be used where needed.
18. Seed mix within the fenced-in areas of the solar array shall be revised and approved by the Planning Board.
19. Wild Flower seed mix to be submitted and approved by the Planning Board shall be applied in all areas disturbed within the shade management areas.
20. Screening for Field "D" shall be planted prior to the installation of the solar panels in Field "D". All screening trees shall be a minimum of 5' tall at the time of planting.

Whitin requested that a finding be added referencing the zoning freeze and the applicability of this approval.

Hartnett also recommended that the vegetative screening be extended on the southerly side of Field "D" 100' to the west and the screening on the east side of Field "C" be extended 50' north and 50' south. The Board also discussed adding a condition that would require reasonable vegetation growth prior to connecting the panels to the grid.

Watterson stated that he looked into vegetative screening and would recommend a minimum planting of 8' for screening and Bullard stated that they should be of the variety that is resistant to deer. Watterson also noted that this project is one of the smaller solar projects at 2.0 Megawatts.

Bullard stated that he was inclined to support the application with the stated conditions, he noted that the forest could be removed with or without the solar project.

Whitin noted that both fields "C" and "D" required tree clearing, so if Field "D" was not in compliant with the Low Impact Development By-law, Field "C" would also be in noncompliance. He noted that there have been a number of changes to the plan.

### **Motion**

Daylor made a motion to approve the Low Impact Site Plan application for a Large Scale Solar Energy System for SunRaise Development L.L.C for property owned by Manuel III and Carolyn Ferry, located at 136 Old Pine Hill Road and White Oak Run, Assessor's Map 43, Lot 29. Pursuant to Westport Zoning By-Laws Article 20 Low Impact Development as the plan presented reasonably meets the intent and purpose of the LID By-law by reducing the adverse impacts of soil erosion, sedimentation, and stormwater runoff. Seconded by Bullard, members Whitin, Daylor, Watterson, and Bullard voted in favor of the motion. Cole abstained.

### **Motion**

Bullard made a motion to approve the Special Permit application for a Large Scale Solar Energy System for SunRaise Development L.L.C for property owned by Manuel III and Carolyn Ferry, located at 136 Old Pine Hill Road and White Oak Run, Assessor's Map 43, Lot 29. Pursuant to Westport Zoning By-laws Article 24 Large Scale Solar Energy System subject to findings and conditions. Request to construct a solar energy system, approximately 2.0 Megawatts. Seconded by Daylor, members Whitin, Daylor, Watterson, and Bullard voted in favor of the motion. Cole abstained.

### **4. Administrative Items**

a. Nadine Castro, Assistant Planner II - Request to remain at 35 hours.

Hartnett stated that the new union contract allows for union members to work 40 hours per week and Castro has requested that she be allowed to remain at 35 hours. Hartnett stated that at this time he is in favor of the 35 hour work week but would like to be able to revisit it in 6 months.

### **Motion**

Daylor made a motion to keep the Assistant Planner II position at 35 hours/week for the next six months. Seconded by Bullard. The vote was unanimous with all five members in favor.

- b. Brightwoods (09-006C) – Release inspection fees \$322.22 + interest.
- c. Superior Energy (19-001SPA) – Release fees \$642.50 + interest.
- d. Pine Hills (19-003B) – Release review fees \$1500 + interest.
- e. High Point Estates (19-004B) – Release review fees \$1500 + interest.
- f. Woodland Estates (19-005B) – Release review fees \$1500 + interest.

Hartnett stated that items b-f are accounts that have been closed and the remaining funds should be released to the applicants. Bullard noted that the spreadsheet for Brightwoods had a balance of \$1,300, Hartnett stated that the spreadsheet has been corrected and should be \$322.22.

### **Motion**

Bullard made a motion to release the funds to the applicants for items b-f. Seconded by Daylor, the vote was unanimous with five members in favor.

g. Sodom Road – Hugh & George McGovern, Chapter 61A Release – Assessor's Map 60, Lot 1B

Whitin stated that the Board had not opposed the release of a number of lots for this owner and suggested that the owner request a release for all the lots at once.

### **Motion**

Daylor made a motion that the Planning Board has no objection to the release of Lot 1B from Chapter 61A. Seconded by Cole. The vote was unanimous with all five members in favor.

### **5. Matters not reasonably anticipated.**

Cole noted that one of the action items of the master plan was to have an implementation/review committee to meet annually and suggested that the Planning Board consider this in the fall.

### **6. Correspondence.**

- a. School/Camp Ground Letter from Joseph Ingoldsby - Noted
- b. 18-003SP-S Court Dismissal Tootell Way Solar - Noted
- c. Zoning Board of Appeals Decisions – 1216 Drift Road & Lars Way - Noted

**7. Minutes.**  
June 18, 2019

**Motion**

Bullard moved to approve the minutes of June 18, 2019, seconded by Cole. The vote was unanimous with all five members in favor

**8. Invoices.**

Annual AppGeo Website Maintenance - \$3,000 – Bullard moved to approve the invoice for \$3,000. Seconded by Daylor with all five members in favor.

Invoice for Hartnett - Bullard moved to approve the invoice for \$307.24. Seconded by Daylor with all five members in favor.

Invoice for Whitin - Bullard moved to approve the invoice for \$768.73. Seconded by Cole with four members in favor. Whitin abstained.

**Adjournment**

Members unanimously voted to adjourn at 6:15 p.m.

Respectfully submitted,

James Hartnett, Town Planner  
Nadine Castro, Assistant Town Planner II