



TOWN OF WESTPORT
856 Main Road
Westport, Massachusetts 02790

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

PLANNING BOARD

PLANNING BOARD MEETING MINUTES

October 22, 2019

Chairman Jim Whitin called the meeting to order at 6:00 p.m. with Vice-Chair Robert Daylor and members John Bullard, James Watterson, Bill Sheahan and Town Planner James Hartnett in attendance.

6:00 p.m. Public Hearing

1. Soltage Rt 88 Solar (18-011LID-S) (continued from February 20, 2019, March 20, 2019, April 23, 2019, May 28, 2019, July 16, 2019, August 13, 2019, September 10, 2019)

Request by the applicant to consider the Special Permit and Site Plan applications of **Westport Route 88 Solar 1, LLC c/o Soltage LLC** for property owned by Pedro L. and Maria M. Teixeira, located on 0 Route 88 (End of Sullivan Drive), Assessor's Map 31, Lot 5 & 6A. 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 4.5 Megawatts AC, 6.0 Megawatts DC.

Whitin read notice into the record.

Attorney Todd Brodeur was present representing the applicant along with David Mackwell from Kelly Engineering and David Childs. Atty. Brodeur acknowledged only four members could vote.

Brodeur commented the south fields were reduced to minimize clearing and keep solar in the cleared areas. He addressed the neighbor's concerns regarding keeping Sullivan Drive improvements to a minimum. He agreed to stabilize the culvert between the fields and to widen the access drive to 12' for emergency vehicles.

Whitin questioned the diameter of the pipe. Maxwell commented the existing pipe is a 36" concrete-lined steel pipe. He received a recommendation to slip-line the pipe to maintain flow capacity and will also rebuild the headwalls. Whitin asked to describe any requested waivers. Maxwell described waivers listed on sheet 2. He calculated 25% of open space and came up with a total of 4 acres of the cleared area. An 8-foot fence would be installed to shield the array from the highway.

Hartnett commented Field signed off on drainage and his concerns regarding the access road between the fields were addressed. Mackwell commented the utility poles will be underground.

Hartnett asked for clarification of the width of the gravel drive (Sullivan Drive) to the panels. Mackwell responded the drive will remain 18' wide. Hartnett suggested moving the construction tracking pad closer to the project. Bullard commended the proponents on addressing the comments and concerns of the Board and the neighbors.

Whitin asked if there would be additional poles on Briggs Road. Child's commented that there will be one riser pole along Briggs Road.

David Almeida was present and questioned if the road was required to be 18' wide. Mackwell responded the 18' width is for emergency vehicles.

Rose Sullivan of 9 Sullivan Drive was present. Ms. Sullivan was concerned about her personal utility poles on the road. Her poles would not be used.

Kylie Ouellette of 15 Sullivan Drive was present. Ms. Ouellette questioned if access to her property will be restricted during construction. Mackwell replied, no. Ms. Ouellette asked what the construction time-frame would be. Attorney Brodeur replied construction would take approximately 3-5 months.

Hartnett addressed the waivers and read the Sample Findings of Fact and Sample Conditions into the record.

**Large Scale Solar Special Permit
Sample 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.
3. This project protects adjoining premises by providing adequate screening and buffers between the property lines and the solar arrays.
4. This project provides screening and buffers to protect scenic vistas and view sheds from residential uses, public streets, and waterways as described in 24.3.11.d.

Sample 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. 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.
5. The address shall be posted at the beginning of the driveway at Briggs Road as required by the Westport Fire Department.
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. 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.

9. 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 costs associated with construction observation/inspection services during the construction phase.
10. The site shall be developed in accordance with the erosion control plans.
11. Prior to the issuance of the building permits the applicant shall provide a copy of the SWPPP and a copy of the Notice of Intent to be filed with NPDES General Permit for Discharges from Construction Activities to the Planning Board.
12. Prior to tree clearing, all areas to be cleared shall be clearly marked and reviewed by the Town's Consultant Engineer.
13. 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.
14. If rocks are encountered and need to be removed, they shall be trucked off-site and not crushed on site.
15. Prior to connecting any of the solar panels to the grid, the applicant shall establish vegetative growth in all disturbed areas sufficient to prevent sediment transfer and soil erosion. If vegetative growth is not possible due to the time of year, the applicant may propose other methods to control sediment transfer and soil erosion to the Planning Board for approval.
16. Prior to the issuance of the occupancy permit, the Planning Board or their designee 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 Planning Board.
17. Vegetation control relating to the solar project shall be mechanical only and no pesticides or other chemical products shall be used.
18. The recordable plan and revised deed shall include restrictive language defining the open space and noting that it shall remain in its natural state until such time as all equipment and utilities related to the solar array are removed.
19. The protected open space shall be a minimum of 10.768 Acres (25% of the Total Lot).
20. Plans shall be stamped and signed by a registered land surveyor.
21. As-built plans shall be submitted and approved by the building inspector and the Planning Board prior to the issuance of an occupancy permit.
22. Once the project is complete, there will be no outside storage of equipment, hazardous materials or excess solar panels within the fenced-in solar sites.
23. The plans shall include a paved apron for a minimum distance of 50' on Sullivan Drive at the intersection of Briggs Road.

Motion to Close the Hearings

Bullard moved to close the public hearings for the LID application and the Special Permit for Large Scale Solar for **Westport Route 88 Solar 1, LLC c/o Soltage LLC**. Seconded by Daylor with 4 members in favor. Sheahan abstained.

Motion to Approve LID Site Plan

Bullard moved to approve the Low Impact Site Plan application for a Large Scale Solar Energy System for

Westport Route 88 Solar 1, LLC c/o Soltage LLC for property owned by Pedro L. and Maria M. Teixeira, located on the west side Route 88 (End of Sullivan Drive), Assessor's Map 31, Lot 5 & 6A. 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 Daylor with 4 members in favor. Sheahan abstained.

Motion to Approve Special Permit Solar

Bullard moved to approve the Special Permit application for a Large Scale Solar Energy System for **Westport Route 88 Solar 1, LLC c/o Soltage LLC** for property owned by Pedro L. and Maria M. Teixeira, located on the west side of Route 88 (End of Sullivan Drive), Assessor's Map 31, Lot 5 & 6A.

Pursuant to Westport Zoning By-Laws Article 24 Large Scale Solar Energy System, subject to findings and conditions as read into the record. Seconded by Daylor with 4 members in favor. Sheahan abstained.

- 2. Approval Not Required (ANR)** P. Wilkinson, M.L. Quigley, F. Hadley Et Al (19-013A) Request by the applicant for endorsement of a 2-lot plan of land on the north side of Narrow Ave, Assessor Map 64 Lot 4.

Mark Boucher from Boucher and Associates was present representing the applicants who are proposing to divide 45 acres into 2 lots. Lot 3 would have 8 ± acres with 213.02 of frontage and Lot 4 would have 35 acres with 480' ± of frontage.

Hartnett commented that both lots meet the minimum requirements for “Approval Not Required.”

Motion

Daylor moved to approve endorsement of the plan entitled “Approval Not Required Plan of land on Narrow Avenue, Westport, MA” because the plan complies with the provisions of MGL Ch. 41 Section 81P. Seconded by Bullard with all 5 members in favor.

- 3. Approval Not Required (ANR)** Roger Berube (19-014A) Request by the applicant for endorsement of a 3-lot plan of land at 805 Pine Hill Road, Assessor Map 38 Lot 16.

Sean Leach was present from SITEC Engineering, Inc. representing the applicant. Leach stated they would be creating three lots. They may be back before the Planning Board for a Common Driveway but they need to file with Conservation first.

Hartnett commented the three lots meet the minimum frontage requirements, have more than 60,000 of area and more than 30,000 s.f. of continuous uplands. The plan meets the minimum requirements for “Approval Not Required Endorsement”

Motion

Bullard moved to approve endorsement of the plan entitled “Approval Not Required Plan of land in Westport, MA prepared for Roger Berube,” because the plan complies with the provisions of MGL Ch. 41 Section 81P. Seconded by Daylor with all five members in favor.

4. Administrative Items

- a. BWC Connecticut River LLC (17-002S-LID) Form O – Full Release –
SW Cole Report dated October 18, 2019 – Consistent with SW COLE review, Hartnett recommends final release of the Special Permit Site Plan

Motion

Bullard moved to grant closeout and final release of the Large Scale Solar project granted to “BWC Connecticut River LLC ” for property located at 70 Adirondack Lane, Assessors Map 1, Lots 13 & 14 and release of the \$11,000 Form G Surety dated: February 26, 2019, and balance of consultant inspection funds upon payment of remaining invoices. Seconded by Daylor with all five members in favor.

- b. BOS Assistant Planner Position - noted
- c. FY21 Budget

Motion

Bullard moved to submit the FY21 budget to the Board of Selectman and Finance Committee. Seconded by Daylor with all five members in favor.

- d. Board of Selectmen Update - Noted
- e. Cornell Hill (19-013C)– Endorse Decision - Noted

5. Matters not reasonably anticipated.

Whitin invited the TV audience to the library for input on November 7, 2019, at 6:00 p.m. to learn about the Zoning Recodification process.

Whitin also invited the public to attend the public meeting on the Integrated Water Resource Plan to be held on November 13, 2019, at the Town Hall Annex at 6:00 in the Meeting Room.

6. Correspondence.

7. Minutes.

October 8, 2019 – Bullard moved to approve the minutes as written. Seconded by Sheahan with all five members in favor.

8. Invoices

WB Mason - \$32.06 – Bullard moved to approve the invoice. Seconded by Daylor with all five members in favor.

9. Executive Session – pursuant to the provisions of M.G.L. c.30a section 21(a) Chair declares an open meeting will have a detrimental effect, to discuss strategy with respect to litigation concerning the special permit of Frank Epps, Watuppa Solar, LLC (19-006SP-LID-SP).

The Board voted to enter into Executive Session at 7:30 p.m. and to adjourn the regular session at the conclusion of the regular session. The Board voted 5-0 by roll call vote with members James Whitin, Chair, Robert Daylor, Vice-Chair, James Watterson, John Bullard, and William Sheahan voting in favor.

Respectfully submitted,

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



TOWN OF WESTPORT
856 Main Road
Westport, Massachusetts 02790

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

PLANNING BOARD

PLANNING BOARD EXECUTIVE SESSION MEETING MINUTES

October 22, 2019

Chairman James T. Whitin called the meeting to order at 7:30 p.m. with members Vice Chair, Robert Daylor, John Bullard, James Watterson, William Sheahan, and Town Planner James Hartnett.

Executive Session

Discussion regarding the Watuppa Solar, LLC (19-006SP-LID-S)

Whitin read notice into the record and noted the Board will not reconvene after Executive Session.

Attorney Jeff Blake from K.P. Law was available by telephone.

Whitin noted that the decision was appealed and members have been served individually and reviewed K.P.'s response.

Bullard asked what his responsibility is for the next steps as far as being served with the individual letters. Blake responded to keep the letters for your records. Town Council has responded on behalf of the Board members and no action needs to be taken individually.

Whitin asked what the next steps will be. Blake commented an "active defense" will be taken. Blake advises that the Discovery process would take approximately 3-6 months and go to trial.

Blake commented that if concerns are met between the two counsels, a joint motion to Remand Hearing with a possible re-notice to allow new members to vote.

Whitin asked if the application is Remanded back to the Board, does it have to be the same application or can it be altered to address the concerns of a member. Blake confirmed the application could be altered.

Hartnett to send Attorney Blake revised By-law.

Attorney Blake to contact opposing counsel.

Adjournment

Bullard motioned to adjourn the Executive Session at 8:12. Seconded by Daylor. Members voted unanimously 5-0 in favor by roll-call, Daylor, Watterson, Whitin, Bullard, and Sheahan to adjourn at 8:15 p.m.