



TOWN OF WESTPORT
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PLANNING BOARD

PLANNING BOARD MEETING

February 9, 2021

Chairman Jim Whitin called the meeting to order at 6:01 p.m. with Vice-Chair Robert Daylor and members John Bullard, Manuel Soares, Mark L. Schmid, and Town Planner James Hartnett were in attendance.

Chair's Announcement – Under MGL Chapter 30A, section 20(f) – The meeting is being recorded. Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Westport Planning Board is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings as provided for in the Order. A reminder that persons who would like to listen to or view this meeting while in progress may do so by following the remote links:

An audio recording of this meeting is posted on the town's website. (www.westport-ma.com)

Call to order 6:00 p.m.

1. Administrative Items.
 - a. CVE North America Inc. (20-005SP) – Endorse Decisions

Hartnett reviewed with the Board the Special Permit and Site Plan-Low Impact Development Permit Conditions 23-29 prior to endorsement.

Schmid requested to add after additional screening in Condition 7 “subject to the Planning Board’s approval”.

Hartnett mentioned the applicant’s concern regarding Condition 28; they asked if the sound could be measured rather than monitored due to the cost to install a monitoring system. Bullard, Whitin, and Daylor agreed to change the wording to measuring and would like a noise baseline to be taken pre-development. Bullard requested that the conditions also reference the town’s noise By-Law.

Whitin asked for further clarification on what the decibels over the ambient noise was. Young mentioned that according to the Master EPA Equality policies and guidance, the limit was 10 decibels.

Waivers

1. 24.3.8 (Section 9.6.3 H) Minimum Setbacks from Street Lines (250’)
2. 24.3.8 (Section 9.6.3 H) Clearing and Trimming within the required 100’ Setback
3. 24.3.9.g (Section 9.6.3.I.7) Waiver for the submission of a photometric plan and the requirement of site lighting.
4. 24.3.9 m (Section 9.6.3 I 13) Plan showing provision for the water

Findings

1. The project as presented meets the requirements of section 9.6 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. The project protects adjoining premises by providing adequate screening and buffers between the property lines and the solar arrays.
4. The project provides screening and buffers to protect scenic vistas and viewsheds from residential uses, public streets, and waterways as described in 9.6.3.K.4.

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 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 Soules Way 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 field surveyed in accordance with the approved plans, 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. Rocks shall not be left on-site outside the fenced solar field.
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. Plans shall be stamped and signed by a registered land surveyor.
19. 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.
20. The solar panels shall be located on one continuous parcel to be held in single ownership with a minimum of 50' of lot frontage on Soules Way. A plan suitable for recording and endorsed by the Planning Board shall be recorded at the Registry of Deeds prior to the issuance of building permits, showing the revised lot with frontage on Soules Way.
21. Upon completion of tree clearing and stump removal, the applicant shall provide an as-built topographical survey of the site to ensure the approved drainage calculations remain relevant for the project after the earth disturbance. The Board may require drainage calculations based on the as-built plans. The applicant shall be required to make adjustments to conform to the approved plans or may consider changes to the drainage design to reflect as-built conditions.
22. As-built plans shall be submitted and approved by the building inspector and the planning board prior to the issuance of an occupancy permit.
23. A decommissioning plan shall be submitted to the Planning Board and Building Inspector prior to the issuance of a building permit.
24. Prior to the issuance of a building permit the applicant shall perform a safety analysis and obtain the necessary permits from the fire department for the on-site storage and battery systems.
25. The applicant shall be responsible for maintaining Soules Way during construction, prior to the issuance of an occupancy permit, the Town's consultant engineer shall inspect the condition of Soules Way, and any damages attributed to the solar project shall be repaired by the applicant.
26. The plan set shall be updated showing a drainage trench/swale along the easterly line of the southerly field.
27. The plan shall be updated to reduce the amount of land clearing south of the drainage basin and additional screening subject to Planning Board approval shall be shown along the westerly fence line abutting the drainage basin.
28. The solar array is located in a quiet residential neighborhood and the applicant has stated that noise levels from the transformers and battery systems shall be reduced to minimum levels at the northerly and easterly property lines abutting the battery storage systems. If at any time during the operation of the system, noise levels from the solar array or accessory equipment violate MassDEP Air Quality Policies & Guidance or Westport's noise By-law, provisions shall be made by the applicant to suppress the sound. The applicant shall be responsible for reasonable costs associated with measuring sound if requested by the Planning Board.
29. The applicant shall make accommodations to work around existing stone walls within the areas to be cleared.

Motion

Daylor moved to endorse the Site Plan- Low Impact Development and Special Permit for CVE North America, Inc. with the updated Conditions of 23-29. Seconded by Bullard. Upon a roll call vote being taken, members Bullard, Daylor, Soares, and Whitin voted aye, Schmid voted nay. The motion carried 4-1.

- b. Jo-Ann's Way (14-006SP) Street Acceptance review, Planning Board non-binding recommendation

Hartnett mentioned that a petition article has been filed requesting the acceptance of Jo-Ann's Way at Old County Estates. The Board granted the release of the subdivision on December 15, 2020. This is a non-binding recommendation.

Motion

Bullard moved to recommend acceptance of Jo-Ann's Way as shown on the plan entitled "Street Acceptance Plan Jo-Ann's Way" dated June 3, 2020. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

6:15 p.m. Public Hearing

2. 431 Fisher Road LLC (20-002C) Request by the applicant to consider a definitive subdivision plan entitled "Definitive Residential Subdivision off Fisher Road Westport, Massachusetts" prepared for Ronald Oliveira, 5 Archers Way, Acushnet, MA 02743 and located between 389 Fisher Road & 431 Fisher Road, Assessors Plat 41 Lot 22 proposing to divide the property into seven (7) lots.

Jamie Bissonnette with Zenith Consulting Engineering was present virtually representing the applicant. Bissonnette gave a brief description of the land. He mentioned after speaking with the Town Planner, they would install a concrete cistern. They will also revise the plans according to S.W. Cole's recommendations in their comment letter dated January 13, 2021.

Whitin asked if they had been before the Conservation Commission. Bissonnette mentioned they wanted to get input from S.W. Cole and the Planning Board prior to filing with ConCom.

Whitin asked if a combined denitrification system would be used for the seven lots. Bissonnette mentioned they would all be individual systems.

Whitin expressed his concern about the size of the cul-de-sac. Hartnett commented the layout radius would be 70' and it meets the current design standards.

Hartnett read the Department Reviews into the record.

Board of Health – Recommends Approval

Board of Selectmen – No Comment

Building Department – No Comment

Conservation Commission – Approval with Modifications – this is not an approved wetland delineation. The Planning Board should require wetland lines to be approved before any Definitive Plan Submittal. This will ensure the lots have the required amount of uplands.

Disability Commission – No Comment

Zoning Board of Appeals – No Comment

Assessor's Department – Recommends Approval

Fire Department - *The roadway site plan shall comply with 527 CMR CH. 18.2. A road width of 40 feet was noted. A minimum cul-de-sac radius of 70 feet, not including the berm edge was noted. The Center of the cul-de-sac shall remain free from obstructions that prohibit emergency vehicles from a complete turn. Please consider a gradual berm edge (Cape Cod Berm at Mass.gov).*

- *In accordance with the Fire Protection Regulation 100, subsurface water storage tank(s) shall be installed within 750 feet of a structure. A fire department permit is required prior to the installation. The water storage tank shall be protected, filled, dressed with the appropriate appliances, and in-service prior to occupancy. The Fire Department shall inspect the water storage tank(s) prior to occupancy. Street signs and house numbers shall be installed prior to the final occupancy of any structure.*

Highway Department – No response.

Hartnett mentioned there were some items that he would like to be addressed on the plan.

1. Add Road Name
2. Add Registry Title Block to recordable sheets.
3. Add standard planning board title block to recordable sheets.

Drainage

1. Infiltration Basin has an emergency overflow directed towards the Road. Consider hard pipe the overflow to the west side of the road. Would recommend that an outlet be added, ponds without an outlet have been problematic in the past.
2. It appears that CB-7 is designed to be a double grate catch basin, this should be clearly shown on the plan view and the profile view.
3. The Town does not have a preference but every fire tank that has been installed in Westport is concrete, many of these subdivisions were detailed as fiberglass and had to request permission to go to concrete. It may be helpful if you listed the concrete equivalent.
4. Will the subdivision be serviced by gas. If yes, it should show on the plan view and in the typical cross-section.
5. Section IV.A.3.B requires a -1% slope for the first 25' of road, the plans show a positive 1% slope. They do provide drainage structures at the intersection.

Other Filings

1. This development along with the frontage lots will trigger the inclusionary housing requirements. A special permit will be required for inclusionary housing.
2. Low Impact – Site Plan Review is also required.

Daylor expressed his concern with the drainage and the overall design of the project. Whitin agreed.

Motion

Bullard recommended the hearing be continued to March 23, 2021, at 6:45. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

6:45 p.m. Public Hearing

3. Zoning By-Law Amendments Pursuant to the provisions of MGL Ch. 40A § 5 and Section 2.2 of the Westport Zoning By-laws, the Westport Planning Board will hold a virtual public hearing on **February 9, 2021, at 6:45 p.m.** The purpose of the hearing is to accept public comments on the following proposed amendments to the Town of Westport Zoning By-laws.

Hartnett gave a presentation of Amendment 1 and 2 and stated the National Flood Insurance Program created a model by-law that includes regulations and guidance for the Town's floodplain overlay By-law. He commented that if these regulations are not adopted by the Town, residents will not qualify for flood insurance.

Amendment 1. Floodplain Districts and Regulations

Item 1a. To amend Section 6.1 Floodplain District and Regulations. The proposed amendment would delete this section in its entirety and replace it with an updated floodplain By-law. This amendment would update the wording for the floodplain overlay district to comply with state and federal regulations.

Item 1b. To amend Section 3 Definitions. The proposed amendment would amend existing definitions and add new definitions in proper alphabetical order for terms relating to Floodplain regulations.

Hartnett added the Attorney General reviewed the re-codified zoning By-law last year and they noted the definition of Medical Marijuana was based on the original Cannabis Control Definition that limited the use to non-profits; this was changed by the CCC and medical marijuana use does not have to be a non-profit so the definition has been changed to reflect that.

Motion

Bullard moved to recommend approval of Amendment 1 to the Board of Selectmen for the Annual Town Meeting. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

Amendment 2.

Item 2a. To amend Section 3 Definitions. The proposed amendment would redefine Medical Marijuana Treatment Center to conform to the State requirements.

Item 2b. To amend Section 2.6.6. Special Permits. The proposed amendment would amend the section relating to appeals and time for action to be consistent with state regulations.

Motion

Bullard moved to recommend approval of Amendment 2 to the Board of Selectmen for the Annual Town Meeting. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

4. Planners Report

Hartnett gave a brief update on the projects he has been working on.

1. **MS4 Permit** – Hartnett mentioned he has been working with Kleinfelder Engineering, BBNEP, and Mass Maritime on developing a scope of work to meet MS4 permit requirements. Through the IDDE plan, the Town has identified 46 priority outfalls that need to be inspected and tested if there is any dry weather flow. The most cost-effective way to do this work would be to have interns at Mass Maritime work with the BBNEP to complete the fieldwork. A draft MOA has been prepared for Mass Maritime for \$9,700, this would also include some mapping. Once the inspections and testing are complete this information will be given to Kleinfelder and they will update the IDDE plan.
2. **Route 177 & Route 88** – there is a virtual meeting with MassDOT to discuss the bond authorizations for Route 177 and Route 6 on Wednesday, February 10, 2021. Soares stated that he will be attending.
3. **MVP Grant** – Woods Hole Group is working on the final plan and a draft should be ready by the end of the month.
4. **Route 6 Aerial Photography** – Hartnett mentioned Kleinfelder has provided a proposal. Hartnett checked with the surveyors for MassHighway and they are not proposing to do the level of survey needed. Soares noted that MassHighway may have enough survey work and will confirm tomorrow.

Motion

Daylor moved to approve the contract for aerial photography provided the existing MassHighway survey is not adequate. Seconded by Soares. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

5. Correspondence

- a. Chapter 91 License (21-003CH91) – 0 Cherry & Webb Lane, KWM Motorsports, LLC. *Noted.*
- b. Chapter 91 License (21-004CH91) – 0 Cherry & Webb Lane, KWM Motorsports, LLC. *Noted.*
- c. CVE Solar Tootell Way (18-003SP) – S.W. Cole As-Built review. *Noted.*
- d. Zoning Board of Appeals Notice – 67 Masquesatch Road wireless tower.

6. Minutes

January 26, 2021

Motion

Bullard moved to accept the January 26, 2021 minutes as written. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

7. Invoices

- a. Southcoast Media – Hearing for Floodplain and Medical Marijuana ad - \$303.60

Motion

Bullard moved to approve the Southcoast Media invoice of \$303.60. Seconded by Daylor. Upon a roll call vote being taken, members Bullard, Daylor, Schmid, Soares, and Whitin voted aye and the motion carried 5-0.

Soares suggested discussing setting up water districts within specific parts of the town, noting the Route 6 water line and the private water supplies at Westport Harbor.

Adjournment

The members unanimously adjourned at 7:58 p.m.

Respectfully submitted,

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