



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

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## **PLANNING BOARD**

### **PLANNING BOARD MEETING MINUTES**

**November 6, 2019**

Chairman Jim Whitin called the meeting to order at 5:31 p.m. with Vice-Chair Robert Daylor and members John Bullard, James Watterson, Bill Sheahan and Town Planner James Hartnett in attendance.

**1. 202 Pine Hill Road Solar 1 LLC (19-012SPA-LID-S) Continued from September 24, 2019, October 8, 2019)**

Request by the applicant to consider a Special Permit and Low Impact Development applications of **Pine Hill Road Westport Solar I LLC c/o Borrego Solar Systems, Inc.** for property owned by **Leonard F. Potter Trustee of The Leonard F. Potter Revocable Trust-2011, Alston J. Potter III and Dianne M. Potter Trustee of the Alston J Potter III Trust-2009**, for property located at **202 Pine Hill Road**, Assessor's Map 41, Lot 4, pursuant to Westport Zoning By-Laws Article 20 Low Impact Development and Article 24 Large Scale Solar Energy System Special Permit. The applicant requests permission to construct a solar energy system, approximately 4.0 Megawatts.

Hartnett stated that the applicant is reducing the size of the solar field eliminating the area to the northeast. The drainage has been revised a number of times and it appears that the applicant has addressed concerns by the consulting engineer and planning staff. Revised plans will not be submitted until late Tuesday afternoon, these will be reviewed Wednesday prior to the meeting. Based on the previous submittal, these plans may be at a point where the Board can render a decision.

Josh Farkes from Borrego Solar was present representing the applicant along with David Albrecht.

Farkes updated the Board on the project. Removed 1.23 acres of tree clearing from the northwest side of the access road. Major change makes system 600 kW smaller due to moving the fence from isolated wetland area. The wattage increased from 385-watt panels to 390-watt panels. Farkes worked with the Gardikis family to update the screening plan and drafted proposed conditions to maintain landscaping for the life of the project.

Per the request of the Conservation Commission, Farkes, Capone, and the Peer Reviewer visited the site and completed 2 test pits. No groundwater was found. Trees within the wetland area will be cut by hand. Plantings will be restored to the wetland area and panels will be removed out of the 100' buffer zone with a few panels over-lapping 5-10' in some areas.

Farkes mentioned that Field Engineering and S.W. Cole had a clean letter. Hartnett commented that Field Engineering submitted a review letter dated 11/6/19. Hartnett commented that Borrego has addressed all of his concerns. ConComm is still working on the details.

Farkes commented that 12.21 acres inside the fence line and only 10.77 acres of tree clearing making that 1.2 acres less.

Whitin asked for clarification on the water table. Leonard Potter, co-owner of 202 Pine Hill Road was present. Potter explained that the test pits did not show any standing water but modeling was seen at around 40".

Whitin asked if any wattage was lost with the decrease. Farkes mentioned the system is now 4.2 mW.

Bullard thanked Borrego and Potter for the site visit and for modifying the plan.

Nicole Gardikis of 244 Pine Hill Road was present and commented that they were satisfied with the additional screening and asked for specific conditions to be written into the agreement.

Whitin asked what are the waivers being proposed. Farkes asked to clear within 25' of wetland and 35' to the southwest site to go within the 100' buffer to the wetlands.

Hartnett recommended approving the waivers. Farkes tree clearing plan is now 10.77 acres.

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

### **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 **Pine Hill Road Westport Solar I LLC c/o Borrego Solar Systems, Inc.** Seconded by Daylor with all five members in favor.

### **Motion to Approve LID Site Plan**

Bullard moved to approve the Low Impact Site Plan application for a Large Scale Solar Energy System for **Pine Hill Road Westport Solar I LLC c/o Borrego Solar Systems, Inc.** for property owned by **Leonard F. Potter Trustee of The Leonard F. Potter Revocable Trust-2011, Alston J. Potter III and Dianne M. Potter Trustee of the Alston J Potter III Trust-2009**, for property located at **202 Pine Hill Road**, Assessor's Map 41, Lot 4, 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 all five members in favor.

### **Motion to Approve Special Permit Solar**

Bullard moved to approve the Special Permit application for a Large Scale Solar Energy System for **Pine Hill Road Westport Solar I LLC c/o Borrego Solar Systems, Inc.** for property owned by **Leonard F. Potter Trustee of The Leonard F. Potter Revocable Trust-2011, Alston J. Potter III and Dianne M. Potter Trustee of the Alston J Potter III Trust-2009**, for property located at **202 Pine Hill Road**, Assessor's Map 41, Lot 4, pursuant to Westport Zoning By-Laws Article 24 Large Scale Solar Energy System Special Permit subject to waivers, findings and conditions as read into the record. Seconded by Daylor with all five members in favor.

### **Sample Waivers**

1. 24.3.8 Waive 100' setback from wetlands resource areas

### **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. 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 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, owner 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 Pine Hill 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 or lease 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 16.5 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 or certificate of completion.
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 applicant shall construct the entrance off of Pine Hill Road in such a manner as to minimize the potential runoff from the access drive onto Pine Hill Road. Water from the access drive shall be directed towards the proposed stormwater management facilities and receiving wetland system.

## **2. Administrative Items**

- a. Soltage Rt. 88 Solar (18-011LID-S) – Endorse Decisions, LID, Special-Permit Solar – Copies of the two decisions are ready for signatures (two sets of each decision). *NOTED*
- b. Assistant Planner Position – Job Description – This position was presented to the Board of Selectmen on Monday, October 28, 2019. The BOS requested that it be referred to the Personnel Board to review the job description. When the budget for next year was discussed with Tim King, he suggested increasing the salary for the position. Suggest increasing the salary and budget for the position to \$61,908, this is the same salary as a couple of the senior positions in the union.

### **Motion**

Bullard motioned to authorize the Chairman to finalize the job description and meet with the Personnel Board and Town Administrator. Seconded by Daylor with all five members in favor.

- c. Planner – Supplies and Services Contracting Class – November 18, 19, & 20. Requesting approval to attend the Purchasing class, this was approved previously on two occasions but the planner was not able to attend due to planning department commitments. This class is only offered in Centerville once a year. Bullard motioned for Hartnett to attend the Supplies and Services Contracting classes. Seconded by Daylor with all five members in favor.

## **3. Matters not reasonably anticipated.**

Hartnett mentioned the IWRMP Grant Funding proposal that was sent to Steve McCurdy, CFO of Mass DEP, and McCurdy is in agreement with the amounts that will be allocated.

Watterson attended a SRPEDD class on Design Review.

## **4. Planners Report**

1. The office has been contacted by Prime Engineering, they will be submitting three definitive subdivision plans within the next couple of weeks for the purpose of freezing the solar zoning requirements. Preliminary plans have been submitted for all three of these properties. *NOTED*
2. The office was also contacted by Field Engineering, they will be submitting a Medical Marijuana Treatment Center application next week for property located on the north side of Route 6 west of Route 88. *NOTED*
3. The RFP's for the MVP Action Grant and the MS4 consulting services were mailed last week with responses due November 21, 2019. *NOTED*

4. There are a couple of surety reductions that should be before the Board at the next meeting. Substantial paving has been completed at Forest Park and Briggs Landing. This work has been inspected by S.W. Cole. *NOTED*

5. Winner Way subdivision work and Blue Acres Way have been completed, waiting for final reports from S.W. Cole prior to presenting the final release to the Board. *NOTED*

6. The new owner of the solar project on Old County Road has been contacted, working on setting up a site visit to view the vegetation. This project was approved a number of years ago and the vegetation under the panels was sparse. The owner posted a \$10,000 bond to cover the remaining work but no work has been done. *NOTED*

**5. Correspondence.**

a. Chapter 91 License (19-005CH91) - 1478-D Drift Road - *NOTED*

b. Chapter 91 License (19-006CH91) - 33 Westlook Lane - *NOTED*

**6. Minutes.**

October 22, 2019 – Bullard motioned to approve the minutes as written. Seconded by Daylor with all five members in favor.

**Adjournment**

The members unanimously adjourned at 7:30 p.m.

Respectfully submitted,

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



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## **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.