

**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
JANUARY 23, 2019**

Members Present: Roger Menard, Chairman
Gerald Coutinho, Vice Chairman
Peter Borden
Constance Gee
Barbara Pontolilo

Also present: Ralph Souza, Building Commissioner

Chairman Menard called the Zoning Board of Appeals meeting to order at 7:04 p.m. in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance.

Pledge of Allegiance

Chairman's Announcement - Under MGL Chapter 30A, section 20(f) – Meeting being recorded.

Westport Stone and Sand, Stephen Cardi - Petitioner seeking a Special Permit at 536 Old County Road, Westport, MA regarding the Aquifer Protection to install solar panels.

Members Present:

Roger Menard, Chairman
Gerald Coutinho, Vice Chairman
Peter Borden
Constance Gee
Barbara Pontolilo

Also present: Ralph Souza, Building Commissioner
Stephen Cardi, Petitioner
Ben Aparo, Energy Development Partners
Alan Benevides, Woodard & Curran

Abutters Present: Joseph Ingoldsby, 471 Old County Road
Beth Simmons, 624 Old County Road

Chairman Menard called the continued hearing to order at 7:06 p.m. with the reading of the Public Hearing Notice and read the letter from the Building Commissioner. He also asked that if anyone wished to speak on this petition, to state their name and address for the record.

Ben Aparo from the Energy Development Partners will be constructing and installing the solar panels at the site. He stated that the reason why they are at the Zoning Board of Appeals is there is a small portion of the land that is in the Aquifer Protection District. He stated that there are no hazardous materials on the solar panels or anywhere in the facility. Even the coolant fluid is a biodegradable coolant similar to vegetable oil. No chemical will be utilized to clean the solar

panels. They will rely upon rain to clean the panels. There will be no use of fertilizers or pesticides and the grass will only be cut a couple of times a year, keeping the grass height to below the panels.

Mr. Aparo stated that:

- the Planning Board had walked the site on Tuesday;
- the Planning Board held a meeting with abutters that had gone well;
- once or twice a year, there will be a mechanical grass cutting, the machinery not to be stored on the site;
- no fuel or chemicals to be stored on the site;
- Eversource connector;
- Site to be solely for solar park;
- Installation of a fence with cameras and alerts along the entire perimeter;
- Garage size will be approximately 15' x 20'.

Chairman Menard raised the issue of Article 8 regarding aquifer and the criteria that need to be met for Board approval.

Alan Benevides, Senior Vice-President of Woodard and Curran showed a map of the site, which delineated the buffer zone. He stated that:

- the Conservation Commission had approved the map with an Approval Notice of Resource Area Delineation (ANRAD);
- most of the space being utilized is not within protection;
- there are 36.7 acres;
- the solar panels will face in a southerly direction (6.4 megawatts);
- construction will include improving the entrance to the site with vegetation, fencing, loom and seeding;
- some of the sheds on the property will be demolished;
- the garage at the entrance to the site will be renovated and painted and will be used for aesthetic purposes only, with no storage of any kind inside the garage (i.e. no toxic chemicals to be stored);
- significant decrease in water runoff, which will be drained by vegetation and into the pond;
- 1,000,000 gallons of water for a 100-year storm;
- most of the water will be evaporated;
- solar panels are not cleaned with chemicals;
- no herbicides or pesticides to be used on the vegetation;
- seed to be planted will be selected by the Planning Board
- tested for various compounds, which was negative;
- State and DEP involved in the project.

He noted that the entire property would consist of the solar panels, under a 20-year lease; and no gravel operation concurrent with the solar site.

Ms. Pontolilo asked what the abutters will be able to see from their properties. Mr. Benevides stated that the Planning Board was also concerned with this issue. He said that there would be no clearing of the vegetation area and there would be a buffer with plantings and other suitable vegetation.

Mr. Coutinho asked about whether there would be glare to the southern abutters. Mr. Benevides said that an anti-reflective coating would be possible; that there is no issue with glare; and the purpose is to reflect/absorb sunlight.

Mr. Coutinho noted that it is currently a non-conforming use site. He said that the site is comprised of 3 lots and asked whether the Cardis owned any abutting properties. Mr. Cardi said they did not. When asked by Mr. Coutinho whether there would be future changes to the site, Mr. Benevides said there would not be, unless they were to come before the Board for approval, if necessary. Mr. Cardi assured that the entire site would be dedicated to the solar project. Mr. Coutinho stated that once the solar array is in use, the property will then be considered to be conforming use and once it is determined to be conforming it cannot be reversed to being non-conforming.

Mr. Coutinho suggested that the Zoning Board not decide at this meeting until the Planning Board had made a final determination because he was concerned with changes the Planning Board might want to make and the Zoning Board would have to revisit the decision. Mr. Benevides requested that the Zoning Board make its decision now and he would meet with the Building Commissioner. Mr. Coutinho noted that the Zoning Board trumps the Planning Board and the Zoning Board is concerned with Aquifer Protection. Mr. Benevides said the project should not change the drainage, topography and top soil would be placed on top of the gravel, as well as making the steep areas less steep.

Mr. Menard stated that the impervious cover should be less than 15%. Mr. Benevides said it would be significantly lower than that.

Chairman Menard asked if there was public comment.

Joseph Ingoldsby, 471 Old County Road, advised the Board that the neighbors are generally supportive of the project; there is to be water quality testing; if anything is found during the construction phase that should be removed, it should not be re-buried on the property; there is an easement adjacent to the cemetery; intent of the owner to reduce noise and trespassers; any street-scaping to be done on Old County Road should look like the other landscaping; water runoff be contained because there is typically icy runoff and the Town must clear the ice.

Beth Simmons, 624 Old County Road, stated that there have been water issues because of Joanne's Way.

Mr. Aparo said that the residents should see less water runoff. The design of the solar array with the grading and the grass should reduce the run-off by almost 50%. The water in the retention pond was tested for various compounds, which resulted in non-detect.

Motion made by Mr. Coutinho to close the hearing at 8:06 p.m. Seconded by Ms. Pontolilo. The Board voted unanimously in favor.

Discussion by the Board ensued

Chairman Menard stated that this seemed to be a straightforward project with little effect to the aquifer protection area. He suggested approving the application with conditions to make sure

that there is no leakage into the aquifer. Also, only a couple of percent of the solar array is in the aquifer protection district.

Mr. Coutinho supported the project, stating that he thought it was a win/win for the applicant and the Town, if done properly. He agreed with Chairman Menard that the aquifer protection area is a tiny portion of the array. He said that it would be good for the Head of Westport and for the environment. He also said that this is the kind of property for which the solar by-law was intended, not going in and taking 45 acres and cutting down all of the trees. Mr. Coutinho said he was in favor of approving the application, and that the decision should outline the typical findings and conditions assigned to any aquifer protection special permit.

Vote taken

Motion made by Ms. Gee to grant the application for a Special Permit at 536 Old County Road with findings and conditions as follows and to be incorporated in the decision:

Findings:

1. The Board found that the proposed uses of and proposed structure to the property satisfy the requirements of Zoning Bylaw Section 8.3.3A.
2. The Board found that the proposed uses and structure do not pose an actual or potential threat of material damage to groundwater quality.
3. The Board found that all adverse impacts to groundwater and disturbance of natural vegetation have been avoided or minimized to the maximum extent reasonably practicable, giving due regard to the economic scope of the project, and the public benefits to be secured from the project.
4. The Board found that the proposed use is in harmony with the purpose and intent of the Bylaw and purpose of the Aquifer Protection Overlay District.
5. The Board found that the proposed use is appropriate to the natural topography, soils and other characteristics of the site to be developed.
6. The Board found that no pesticides, fertilizers, chemicals or fuels shall be stored or used on the entire property, including buffered areas.
7. The Board found that no toxic substances shall be stored or used in or around the property.
8. The Board found that no salt or de-icing chemicals shall be stored or used; no off-site snow or ice shall be dumped and stored at the property.
9. There will be only one (1) roofed structure on the property, which will not be used to store any chemicals, fuels, or fuel-powered equipment or any other materials and is primarily used for aesthetic purposes at the entrance to the site.

Conditions:

The Board imposed the following conditions on the exercise of any Special Permit relief granted and exercised hereunder:

1. All of the Findings of Fact and Conditions noted in the above Findings shall be in force and effect at all times.
2. This Special Permit shall be recorded by the Applicants as a condition of approval and shall not take effect or be exercised until and unless it is duly recorded at the Registry of Deeds.
3. This Special Permit shall lapse if it is not duly recorded at the Registry of Deeds or if its substantial use or construction under the Permit is not commenced within two (2) years from the date the Permit takes final effect (i.e., either 20 days after the decision is filed with the Town Clerk, with no appeal having been filed, or upon final resolution of an appeal from this decision in the applicant's favor), except for good cause or the final determination of an appeal.
4. The applicant shall construct the project in accordance with the approvals as granted by the Westport Planning Board and the Westport Conservation Commission.
5. The Plans of Record are as follows:

Site Plans entitled:

6. The project will be built in accordance with the plans and data submitted to the Zoning Board of Appeals.
7. All equipment fluids shall be non-toxic (reference to MSDS sheets).
8. All provisions of Article 24 and applicable sections of Article 8 are to be adhered to.
9. All gravel pit operations will cease and terminate immediately.

Second by Ms. Pontolilo.

The Board voted unanimously in favor.

The hearing was closed at 8:22 p.m.

Aimee Jean & Paul Lightfoot – RE: Application request for a variance from Zoning Bylaws, Article 7.6.4 for front yard setback for the proposed construction of a single-family residence, adding a second story and garage. The property is located at 922-B Drift Road, Westport, MA and is shown on Assessor's Map 54, Lot 48A.

Members Present:

Roger Menard, Chairman
Gerald Coutinho, Vice Chairman
Peter Borden
Constance Gee
Barbara Pontolilo

Also present: Ralph Souza, Building Commissioner

Aimee Jean and Paul Lightfoot (Petitioners)
Sean Leach of SITEC, Inc. (representing the petitioner)

No abutters were present.

Chairman Menard opened the hearing at 8:26 p.m. with the reading of the Public Hearing Notice and asked that if anyone wished to speak on this petition, to state their name and address for the record.

Mr. Leach of SITEC presented a sketch of the residence to be constructed on a new footprint to match the old footprint with the exception of a 6 foot addition to the house. The current property is a small ranch house with a detached single car garage. He stated that the house will have a second floor and the garage will also have a second floor. The house itself is a conforming structure. The single car garage is currently not connected to the house and it is approximately 6 feet short of the required setback from the front yard. The neighborhood has four houses on a right-of-way.

Chairman Menard read a letter from the Building Commissioner/Zoning Enforcement Officer indicating that the garage shown on the applicant's plans does not meet the front required setbacks.

Mr. Leach stated that there would be an addition of a breezeway, there will be a 3-season porch; 2 bedrooms; one-car garage, connected by a breezeway. There is about a 200 square foot difference in the proposed addition. All of the proposed changes except the change to the garage meet all zoning regulations. They are requesting a finding that adding a second floor to the garage is not more detrimental to the neighborhood.

Ralph Souza, Zoning Enforcement Officer, indicated he had no objection to the project, that there would be an expansion upward to a second floor on both the house and the garage. He indicated that the current garage is non-conforming since it is only 18.5 feet from the front while the zoning code requires 25 feet. Adding the second floor to the garage would not change the non-conformance. All other aspects of the proposed changes meet all zoning codes. He also said that he considered the project to be an upgrade to the neighborhood.

Mr. Coutinho stated that the change to the garage does not make it any closer to the front line, they are just going up.

Chairman Menard called for any public comment. There was none.

Mr. Lightfoot stated that he talked with his neighbor, who had no concerns with the project. He also said that there would be a room above the garage, which he would use for storage.

Mr. Menard stated that the only item we are here to discuss is the second floor to the garage since all other changes meet zoning code.

Ms. Pontolilo stated she had no objection and it would be a positive change to the neighborhood.

8:36 p.m.

Motion made by Mr. Coutinho to close the hearing. Second by Ms. Pontolilo. The Board voted unanimously in favor.

Discussion by the Board:

Chairman Menard stated that he thought this project was straightforward and he does not see a negative to the proposed changes, especially since there were no objections noted by abutters. The proposed changes will make the property more attractive and the change does not make it more non-conforming.

Motion made by Mr. Borden to grant the variance; that the dwelling meets the front, side and rear yard setback requirements; and that the Board found that the alteration to the new dwelling is not substantially more detrimental than the existing non-conforming use to the neighborhood. Second by Ms. Pontolilo. The Board voted unanimously in favor.

Action Items – None.

Correspondence – Mr. Coutinho stated that the Board received a proposal by the Planning Board and asked for approval, disapproval with comments. After review, the Board made no comment to the proposed solar project at Route 88/Sullivan Drive.

Other business – The Board discussed revisions to the application form. Chairman Menard said he would make the revisions, circulate to the Members for comment and have Town Counsel review the proposed revisions at the Board's next meeting.

9:15 p.m.

Motion made by Chairman Menard to adjourn the meeting. Second by Constance Gee. The Board voted unanimously in favor.

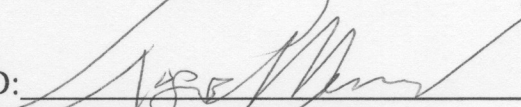
Adjournment.

Respectfully submitted,



Maria I. Branco, Principal Clerk
to the Zoning Board of Appeals

APPROVED:



Roger Menard, Chairman

RECEIVED

FEB 13 2019

**WESTPORT ZONING
BOARD OF APPEALS**