



BELLINGHAM PLANNING BOARD

10 MECHANIC STREET
BELLINGHAM, MASSACHUSETTS 02019
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PlanningBoard@bellinghamma.org

Meeting Minutes February 11, 2016

MEETING LOCATION: ARCAND MEETING ROOM – MUNICIPAL CENTER

Present at the Meeting

Brian T. Salisbury (BTS), Chairman
William F. O'Connell Jr. (WFO), Vice Chairman
Peter C. Pappas (PCP), Secretary
Dennis J. Trebino (DJT), Member
Bruce W. Lord (BWL), Member
Nikyda Resto (NR), Alternate

Other Officials:

James S. Kupfer (JSK), Town Planner and Zoning Compliance Officer
Attorney Mike Kennefick, Town Counsel
Jean Keyes (JK), Planning Board Coordinator

BTS opened the meeting at 6:50 p.m.

Bruce W. Lord was not present for the executive session as he recused himself from discussion and voting regarding this project.

6:50 p.m. Executive Session. Vote to enter into Executive Session to consider strategy with respect to litigation where an open meeting may have a detrimental effect on the town's litigating position and the chair so declares, pursuant to General Laws chapter 30A, §21(a)(exception 3)

BTS: Motion to enter Executive Session and then to return to the public hearing.

WFO: Second.

Discussion: BTS explained the process.

JK polled the Board members to see if they agreed to enter Executive Session. The results of the poll are:

Planning Board Member	Yes	No	Abstain
Brian T. Salisbury	x		
William F. O'Connell Jr.	x		
Peter C. Pappas	x		
Dennis J. Trebino	x		
Nikyda Resto	x		
Vote	5	0	

The Board voted 5-0 to go into Executive Session to consider strategy with respect to litigation where an open meeting may have a detrimental effect on the town's litigating position and the chair so declare, pursuant to General Laws chapter 30A, §21(a)(exception3)

WFO: Motion to close the Executive Session and return to the Public Hearing.

BTS: Second.

Discussion: None.

JK polled the Board members to see if they agreed to close the Executive Session and restart the Public Hearing and the results were:

Planning Board Member	Yes	No	Abstain
Brian T. Salisbury	x		
William F. O'Connell Jr.	x		
Peter C. Pappas	x		
Dennis J. Trebino	x		
Nikyda Resto	x		
Vote	5	0	

Vote: 5-0. Motion Carried. (BTS, WFO, PCP, DJT, NR)

The Board voted 5-0 to close the Executive Session and return to the Public Hearing at 7:13 p.m.

7:00 p.m.

EMC Solar Array, Farm Street, Development Plan: Request for determination of a minor or major change to the approved plan.

Present: Dan Feeney of Beals & Thomas and Steve Long from Borrego Solar Systems, Inc.

Mr. Feeney explained that the original pole to which the solar interconnection would be made could not be used. Eversource, the utility company, said that there were too many items on that pole and they would have to connect to a different pole. Mr. Feeney proposed that they connect to a different pole that is still within the EMC frontage. To run the electrical connection wires, seven (7) additional trees must be cut down.

BWL was concerned that the frontage is zoned residential and the solar property is zoned industrial. He stated that the applicant cannot cross a residential zone to get to an industrial. JSK clarified that this is a previously approved project and the Board is only considering if the pole change is a major or minor modification of the approved plan. JSK also asked Mr. Feeney if any trees will be cut within the right of way since this is a scenic road no trees can be cut within the right of way. Mr. Feeney responded that he will check and get back to JSK but does not believe so.

BTS: Motion to approve the change in use for EMC Solar Array Development Plan, Farm Street as a minor change to the approved plan subject to verification of the trees in the right of way on scenic road.

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (BTS, WFO, PCP, DJT, BWL)

316 Hartford Ave Solar, Development Plan Review and Stormwater Management Permit Large-Scale Ground-Mounted Solar Photovoltaic Installation, 316 Hartford Ave, Continued Public Hearing, Decision Date: 3/15/16.

JSK explained that the Applicant has to meet with the Board of Selectmen and wanted to wait until after that meeting to come before the Planning Board.

WFO was concerned about the construction trucks accessing the site during school hours. BTS stated that all issues will be discussed when the Applicant appears before the Board on February 25, 2016.

BTS: Motion to continue the public hearing for 160 High Street Lot 1 and Lot 2 Development Plan Review, Stormwater Management Permit, Major Business Complex Special Permit, Flexible Parking Special Permit, and Scenic Road Special Permit to February 25, 2016 at 7:00 p.m.

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (BTS, WFO, PCP, DJT, BWL)

Pine Hollow Estates Townhouse Special Permit, Project Remand, off of Countryside Road, 1st Public Hearing,

BWL left the meeting because he cannot participate in the discussion or vote on the permits.

JSK read the public notice.

BTS: Motion to open the public hearing for Pine Hollow Estates Townhouse Special Permit, Project Remand, off of Countryside Road.

WFO: Second.

Discussion: None.

Vote: 4-0. Motion Carried. (BTS, WFO, PCP, DJT)

Present: Attorney Walter Mirrione, Alan Nash, Applicant, and Bob Poxon of Guerriere & Halnon.

Attorney Mirrione asked that the Board incorporate the prior submittals into this public hearing. He further stated that the second egress is the main point of discussion. The Applicant has agreed to install a gated emergency access at the proposed second egress on Brookside Road. The Applicant will do whatever the Fire Department requests for this gate and the access. The Applicant has proposed a mitigation fee of \$3,000.00 per market rate unit less the advertising fees for this public hearing.

Mr. Poxon explained the location of the gate and screening that will be installed along Brookside Road. Multiple locks will be installed along with Knox box locks for the Police and Fire Departments. The only clearing will be for Brookside Road. There is existing natural screening which will remain and they will add additional screening along the lots abutting Brookside. JSK will work with the applicant to determine sufficient screening which will be sufficient year round. Attorney Mirrione stated that the Applicant will submit a planting plan for approval to the Board prior to installation.

BTS explained that after a snowstorm, the Applicant must keep the snow on the property and they cannot allow the snow to be piled up in front of the gate. Mr. Poxon agreed that access to that road has to remain open from outside and within the property. The condo association will be responsible for keeping it cleared and open.

WFO stressed that this road is for emergency access only and that other vehicles must not block the road or park on the road. Mr. Poxon stated that the Applicant will install signage to indicate no parking, emergency access only, tow zone, etc.

JSK requested that phasing of construction be made in conjunction with the four affordable units that are required. Attorney Mirrione responded that the Applicant must come back before the Board for a Special Permit for Inclusionary Housing. At that time, the Applicant will propose the timing of the construction and location of the affordable units. They understanding that the affordable units must be spread throughout the development and that they must look the same as the other units.

Attorney Kennefick advised the Board to state in this decision that the sequencing of affordable housing will be addressed in the Special Permit for the Inclusionary Housing. NR explained to the public that affordable housing is not Section 8 low income housing.

Mr. Poxon explained the originally designed Bellwood loop and how the Applicant is proposing to extend this roadway and complete the connections.

Attorney Kennefick explained the original submission, denial, appeal, remand process. A new agreement has been offered to the Board by the Applicant with concessions and mitigation. All parties have talked with the judge to remand to this public hearing and have come to a new agreement. The applicant has agreed to all terms with the emergency gated access.

BTS explained the settlement process. The risk the Board faces if this goes back to trial is that the judge then regains control and the town no longer has control of the process. The town does not want to lose control of this development and the process. The Board voted to accept the settlement agreement because the Board has an obligation to look out for the town's best interests, the residents' interests, and the applicants' rights. This is not a decision that Board made lightly.

Attorney Kennefick explained that the settlement agreement was only for the applicant to appear at this public hearing. The agreement was not signed saying that the project was approved. This public hearing is to approve or deny the project. If the Board moves forward with the approval, the Board maintains control over the project. If judge decides, the Board loses control of the project.

Public comments and questions:

Joe Yellope of 32 Countryside Road questioned the impact to Countryside Road. Mr. Poxon explained the two access points.

Sharyn Stacoffe of 11 Countryside Road would like the Board to confirm that they received the petition. The Board confirmed. Ms. Stacoffe had several questions concerning the plans, traffic, privacy, noise, and the full second egress. She also questioned the applicant Alan Nash's address as it has been listed as foreclosed. BTS explained that the purpose of the abutter notice is to notify the abutters of this public hearing – which it did. BTS sees no problem with the notice. Additionally, BTS explained that a traffic study was done previously and it was extensive. The study provided data regarding the impact to Countryside Road. Attorney Kennefick added that the town's peer reviewer, BETA had analyzed the traffic study and found no negative impact. In addition, this application falls under the zoning bylaws for special permit and the subdivision rules do not apply. In fact, the Board could only require one egress if they chose. The second egress could be requested by the Board, but it is not required.

Attorney Mirrione explained that the road maintenance will be handled by all condo associations. There is an existing maintenance agreement between Bellwood Condos and Brook Estates that incorporates Pine Hollow Estates and this agreement has been recorded. Ms. Stacoffe commented that Countryside Road is not in any condition to handle the additional construction traffic. There is nothing in the plans that states that the road must be repaved or expanded. Construction vehicles will deteriorate the road and the improvement should not fall on Bellwood Condos and Brook Estates. JSK responded that the road will be repaired after construction to the state it was in prior to construction and this will be discussed in the pre-construction meeting.

WFO would like to be sure that all trucks are wiped to control exposure and to prevent dragging dirt onto the main road. JSK responded that the town's inspection agent reports to him of any issues and they will be in constant contact during construction. BTS would like the Applicant to be considerate of the neighbors and to try to be sensitive to them concerning construction noise and Saturday work.

Robert Moore of 44 Countryside Road thought that construction equipment had to travel a separate road to get into a construction area. He pointed out that the timing and work hours are also in that agreement between Brook and Bellwood. Attorney Mirrione responded that the agreement is enforceable and the conditions cannot be violated. Mr. Moore was concerned about the land between the two properties that was supposed to be a buffer between the two developments. Attorney Mirrione explained that this piece of land was formerly Brook Estates and Bellwood Condos' common land. As part of the agreement, this piece of land was carved out and, when it is sold to the applicant, both condo developments will benefit. There was a restriction that certain areas could not be developed and the plan for Pine Hollow Estates was crafted with that in mind. The proposed plan does not have structures in that buffer land and it will not be developed. The settlement agreement between the two condo associations is confidential and a second agreement is recorded that deals with mutual maintenance. The mutual maintenance agreement was submitted to the Board previously.

BTS: Motion to close the public hearing for Pine Hollow Estates Townhouse Special Permit, Project Remand, off of Countryside Road.

WFO: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (BTS, WFO, PCP, DJT)

BTS appointed NR to vote on this special permit.

BTS: Motion to approve the public hearing for Pine Hollow Estates Special Permit for Special Residential Uses Townhouse Special Permit, Project Remand, off of Countryside Road.

NR: Second.

Discussion: None.

Vote: 5-0. Motion Carried. (BTS, WFO, PCP, DJT, NR)

BTS: Motion to approve the public hearing for Pine Hollow Estates Townhouse Development Plan Review and Stormwater Management Permit, Project Remand, off of Countryside Road subject to conditions discussed.

WFO: Second.

Discussion: None.

Vote: 3-1. Motion Carried. (BTS, WFO, DJT - Yes) (PCP - No)

Miscellaneous:

General Business:

- ☐ **ANR's 799-801 Pulaski Blvd – John J. Wasylean Jr.** – JSK explained that this ANR plan met all zoning and frontage requirements. The Board signed four paper copies and the Mylar.
- ☐ **As-Built Certifications**
- ☐ **1/28/16 Minutes Signing**

BTS: Motion to sign the January 28, 2016 Meeting Minutes.

WFO: Second.

Discussion: None.

Vote: 4-0. Motion Carried. (BTS, WFO, PCP, DJT,)

- ☐ **Sign Vouchers**

BTS: Motion to sign the Vouchers.

WFO: Second.

Discussion: JK explained the vouchers and payroll.

Vote: 4-0. Motion Carried. (BTS, WFO, PCP, DJT)

MINUTES OF THE PLANNING BOARD MEETING

February 11, 2016

BTS: Motion to adjourn.

WFO: Second.

Discussion:

Vote: 4-0. Motion Carried. (BTS, WFO, PCP, DJT)

Meeting Adjourned at 8:10 p.m.

Minutes Accepted on: 2/25/16
(Date)

Brian T. Salisbury
Brian T. Salisbury

Peter C. Pappas
Peter C. Pappas

Bruce W. Lord
Bruce W. Lord

Jean Keyes
(Prepared by: Jean Keyes)

William F. O'Connell Jr.
William F. O'Connell Jr.

Dennis J. Trebino
Dennis J. Trebino