

## TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Meeting Held at the Town Hall – Board of Selectmen’s Room on **December 1, 2016** at 7:00 PM

Members Present: Gerard Ahearn (Chairman), Andy Kischitz, Bradley Reed, Jack Sargent (Members), Bryan Holmes (Associate)

Members Absent: Kay Stoner

Also Present: Erica Uriarte (Town Planner), John Scudiere (176 Still River Rd), Vin Gately (Sunset Ridge), Stanley Haberski (Sunset Ridge)

Call to order: 7:04PM

### Hearings:

- In accordance with Massachusetts General Laws, Chapter 40A, Section 11, notice was given and a hearing held by the Bolton Zoning Board of Appeals on Thursday, December 1, 2016 at 7:00 p.m. in the Board of Selectmen Room of the Town Hall, 663 Main Street, Bolton, MA to hear and act upon the application of John Scudiere, 176 Still River Road, Bolton, MA 01740. The applicant was seeking a Variance for proposed ground-mounted solar system located in Bolton’s Residential Zoning District at 176 Still River Road identified on Assessor’s Map 7.A as Parcel 8. The applicant was seeking a Variance for side yard setback pursuant to Section 250-13.B of the Code of the Town of Bolton.
  - The Applicant submitted additional survey plans during the hearing.
  - The Premises is considered a backland lot containing 4.5 acres and approximately 51 feet of frontage along Still River Road in accordance with Section 250-13.B of the Code of the Town of Bolton.
  - The proposed ground-mounted solar system is comprised of approximately 36 solar panels with fourteen (14) 2-inch diameter posts in the ground. The system is greater than 1.5 feet above existing grade and encompasses an area that is approximately 43 feet by 13 feet.
    - The Board expressed some concern regarding live voltage. There will be no fence around the system. However, the system will be hidden from the road towards the rear of the property.
  - The proposed location of the ground-mounted solar system is in a grass field that is greater than 100 feet from wetlands, but within the 200 foot riverfront area, as defined by Bolton, MA GIS Map. The solar panels would provide shade and a cover in the winter for wildlife. The current vegetation (field grass) would be maintained.
    - The Board questioned why the Applicant did not seek an NOI with the Conservation Commission to avoid needing a Variance. The Applicant indicated that moving the system further into the wetland buffer encountered steeper topography changing the required angle of system.
  - The Applicant is seeking to reduce the required 50 ft. side yard setback to 17 ft.
  - The Board found that the criteria for the grant of Variances, set forth in G.L. c. 40A, Section 10, have been met for the following reasons:
    - 1. That there are circumstances that exist relating to the soil conditions, shape, or topography of the land or structures that uniquely affect such land or structures but that do not affect generally the zoning district in which such land or structure is located;
      - The proposed location of the ground-mounted solar system is constrained by wetlands (100 ft. buffer) and topography. Relocating the system further into the 100 foot wetland buffer (southwesterly direction) in order to meet the 50 foot side yard setback would encroach closer to the wetlands where there is a change in elevation/grade. This would modify the angle of the system reducing the amount of sunlight received by the panels. If the system were to be relocated closer to the existing dwelling (northwesterly direction), shadows from the surrounding trees and the dwelling would also minimize sun exposure to the panels. Placing the system on the roof is not an option as the roof faces the wrong direction and the peak locations would not provide sufficient surface area for the system. The

- combined constraints dramatically limit the possibility of the ground-mounted solar system being built on the Premises.
- 2. Literal enforcement of the provisions of the bylaw would involve substantial hardship financial or otherwise to the Applicant;
    - The existing dwelling on the Premises is electrically heated. Without the proposed ground-mounted solar system, there will be significant financial hardship for the Applicant. The Applicant is seeking to reduce very high annual electrical bills and increase property value.
  - 3. The desired relief may be granted without substantial detriment to the public good.
    - The objective of the Bolton Zoning Bylaws is to establish uniform building practices and maintain the public good by protecting the interests of adjacent property owners. The owner of the neighboring property (Kittler Thomas, 180 Still River Road, ID: 007.A-0000-007.0) impacted by the reduced setback has agreed that a ground-mounted solar system located 17 feet from their shared property line is acceptable. The proposed solar system will not be visible from Still River Road. No damage will be incurred by the adjacent property owner or the community.
      - G. Ahearn read the letter from Thomas Kittler dated 10/27/16 during hearing.
  - 4. The desired relief may be granted without nullifying or substantially derogating from the intent and purpose of the Bolton Zoning Bylaws.
    - The requested Variance is for a small ground-mounted solar system and is specifically limited to one property boundary. Both the Applicant and the adjacent property owner of lot identified on Bolton Assessor's Map 7.A as Parcel 7 concur that no harm will be incurred. The proposed solar system is not visible from Still River Road. No other property owners will be impacted by this Variance.
- **J. Sargent motioned to close the public hearing. 2<sup>nd</sup> by A. Kischitz. All in favor 5/0/0.**
  - **G. Ahearn motioned to grant the Variance request to place solar system within 17 feet of property line as shown and conforming to plans Exhibit 1 through 8 and additional plans submitted during hearing. 2<sup>nd</sup> by J. Sargent. All in favor 5/0/0.**

#### Business:

- 7:30 p.m., Close Out of Sunset Ridge, Vin Gately
  - The Board discussed releasing the remaining bond amount of \$15,000.
  - The Board conducted a site visit on 11/11/2016 and determined that the remaining site items had been completed (Nitsch Engineering's Report from 9/20/16).
  - Steve Ventresca from Nitsch Engineering sent final report signing off on the project completion.
  - There was a question raised at the 9/20/16 site visit as to whether the catch basin maintenance was the responsibility of the condo association or Vin Gately. E. Uriarte indicated that the maintenance was now the responsibility of the condo association in accordance with the Comprehensive Permit.
  - Stanley Haberski questioned the completeness of the stormwater management system (maintenance of catch basins) and submitted pictures to the Board. The Board indicated that the condo association should have come forward with any additional site items they felt were outstanding.
  - **G. Ahearn motioned to release \$10,000 of \$15,000 to Vin Gately; hold \$5,000 in order to receive cost certification and can be released upon E. Uriarte reviewing cost certification. 2<sup>nd</sup> by J. Sargent. All in favor 5/0/0.**

#### Administrative:

- ZBA approved Mission Statement.
- Approved meeting minutes from 10/13/2016.

G. Ahearn motioned to adjourn meeting at 7:54 pm. 2<sup>nd</sup> by B. Holmes. All in favor 5/0/0.

~~John Holmes~~  
AD Holmes II  
Brya Holmes 1/10/17  
Brya Holmes 1/10/2017  
Brya Holmes 1/10/2017