

TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Meeting Held at the Town Hall – Board of Selectmen’s Room on **October 1, 2014** at 7:00 PM

Members Present: Gerard Ahearn (Chairman), Kay Stoner, Andy Kischitz, Bradley Reed (Members); Jack Sargent (Associate)

Also Present: Erica Uriarte (Town Planner), Bob Knowles (REM), Brian Kopperl (REM), Joel O’Toole (Bolton Orchards), Mark O’Hagan (Craftsman Village Bolton, LLC), Martha Remington

Call to order: 7:00 PM

Hearings:

- In accordance with Massachusetts General Laws, Chapter 40A, Section 11, notice was hereby given that the Bolton Zoning Board of Appeals held a public hearing to hear and act upon a Variance application of Davis Farms Trust, a Massachusetts business trust d/b/a Bolton Orchards for a property located in Bolton’s Residential Zoning District at 125 Still River Road identified on Assessor’s Map 6.A as Parcel 4.
 - o Brian Kopperl and Bob Knowles from Renewable Energy Massachusetts LLC (REM), on behalf of Davis Farms Trust, presented their request for Variance to the Board providing the following testimony:
 - Davis Farms Trust is seeking relief from a side yard setback pursuant to Section 250-13B of the Code of the Town of Bolton. All other dimensional setbacks are being met.
 - The site is located in the Business Zoning District on an existing gravel pit behind Bolton Orchards that contains the existing 4.95 MW solar facility (20,000 panels) connected to National Grid and leased from Bolton Orchards (25-30 year lease). An ANR plan was approved in 2012 dividing the existing gravel pit into two parcels labeled Lot 1A and Lot 2A. The existing 4.95 MW solar facility resides on Lot 1A. Lot 2A is to be developed into a 2 MW solar facility on approximately 11.8 acres of the parcel.
 - The proposed 2 MW solar facility was approved by the Department of Energy Resources and will interconnect with National Grid on Still River Road. Tennessee Gas will need to provide easement to Davis Farms Trust to allow the proposed electrical line associated with the facility to cross their existing gas pipeline.
 - The 2 MW solar facility is expected to be operational in 12 to 18 months dependent on lease agreement with Davis Farms Trust, filing with National Grid, Special Permit approval from Bolton Planning Board, tax agreement with Bolton Assessor, and four (4) month construction period.
 - The reduction in side yard setback from the required 50 feet to 0 feet is being requested along the property line between Lot 2A and Lot 1A for approximately 1,400 linear feet. The pre-existing 50 foot setback on Lot 1A would serve as the de facto setback for both Lots 1A and 2A.
 - **ZBA Finding #1 related to site topography:** If the required side yard setback were to be met, the topography along the northern and eastern portions of the site would need significant alteration to reduce grades from 30% to 15% to prevent shading on the solar panels. A substantial amount of bedrock would also be encountered as part of this alteration.
 - **ZBA Finding #2 related to hardship:** The cost associated with the above alteration to topography would be \$130,000 generating a financial hardship.
 - **ZBA Finding #3 related to public good:** There is no detriment to the public good as the closest abutter would be Bolton Orchards. The side yard setback is within the existing gravel pit “bowl” with no impact to surrounding abutters. If the zoning relief were granted, the Applicant would be encroaching towards the 4.95 MW solar facility which has the same use and land owner.
 - **ZBA Finding #4 related to granting relief without nullifying/derogating from Bolton Zoning Bylaws:** Allowing the pre-existing 50 foot setback on Lot 1A to serve as the de facto joint setback for both Lots 1A and 2A is supported for the following reasons:
 - The existing setback on Lot 1A runs the entire length of Lot 2A;

- Same use proposed on both Lots 1A and 2A;
 - Same owner for both Lots 1A and 2A;
 - The 2 MW solar facility will be hidden from view in all directions due to the existing hillsides and tree cover;
 - The Town public safety interests are adequately protected through access to the existing 50 foot setback on Lot 1A (as well through the main security gates at the entrances to each lot).
- o **B. Reed motioned to close the hearing. 2nd by A. Kischitz. All in favor 5/0/0.**
 - o **B. Reed motioned to approve the Variance to reduce the side yard setback from 50 feet to none allowing the 50 foot setback provided on Lot 1A for the 4.95 MW solar facility be the de facto setback between Lots 1A and 2A. Such variance goes with use of the site for a solar facility and any change would be null and void and built in conformance with the plans. 2nd by J. Sargent. All in favor 5/0/0.**

Business:

- 7:30 p.m., Mark O'Hagan, Craftsman Village Bolton, LLC - Bolton Manor
 - o Application to modify the Comprehensive Permit and Plans for the previously approved Bolton Manor Project to be located on Sugar Road identified on Assessor's Map 4.C Parcel 26. The Applicant is requesting for the Board to make a determination whether or not the modifications to the Comprehensive and Plans are considered "Substantial Changes to the Project", formally requesting the transfer of the Comprehensive Permit from Sugar Road Realty Trust to Craftsman Village Bolton, LLC, and for the Board to approve modifying the subsidy program for the development from the New England Fund (NEF) Program to Local Initiative Program (LIP) through DHCD.
 - The project was reduced from 42 housing units to 30 single family homes.
 - The parcel is being divided into five (5) lots to prevent having to develop a Community Water Supply or Wastewater Treatment Plant. Each lot will be served with a well and shared septic system. A total of six (6) homes will be built on each lot with associated attached/detached garages.
 - The existing wells on the property will be used with exception of one new well drilled.
 - Groundwater tested high in some areas and require some of the homes to be built on slabs with no basements.
 - There are three (3) additional site entrances with good site lines. Visitor parking is provided towards the front of the property.
 - The Board of health and Conservation Commission are in the process of reviewing the modifications to the project.
 - Testing for the shared septic systems was approved by the Board of Health. The project modifications will also have to be reviewed and approved by Mass DEP.
 - Conservation Commission determined the project modifications did not require filing a new NOI. The Commission will modify the Order of Conditions.
 - The Fire Department reviewed the project modifications and had some layout concerns.
 - The Applicant will provide the necessary emergency vehicle access to all the buildings (and turnaround areas).
 - The Applicant is providing Two (2) fire cisterns along each main road of the site.
 - The Applicant is requesting to modify the subsidy program from the Mass Housing ENF program to filing a LIP application with DHCD.
 - The same income eligibility requirements and universal deed rider will be used.
 - Stormwater management was designed and in compliance with MassDEP Stormwater Handbook.
 - o The Board noted the detached garage for dwelling no. 25 was not on the same lot. The Applicant will modify the plans to show both structures on the same lot. If not feasible, the Applicant will ask their attorney for legal opinion.
 - o The Board noted that dwelling no.13 was missing on the Overlay Plan. The Applicant to update accordingly.

- o The Board requested the Applicant provide documentation that the property/project was sold from Sugar Realty Trust to Craftsman Village Bolton, LLC. The Applicant to provide purchase and sales agreement.
- o The Board requested for Nitsch Engineering, their peer review consultant, to review and approve changes to the Site Plans (specifically stormwater management).
- o The Board will review the modifications to the comprehensive permit language at their next meeting. These changes primarily have to do with changing the wording from wastewater treatment plant to septic systems, community water supply to existing wells and updating the subsidy program.
- o **A. Kischitz motioned to consider the modifications to the Bolton Manor Comprehensive Permit not to be "Substantial Changes to the Project". Determination conditioned on the Applicant providing updated plans with all houses and garages on same lot or written statement from the Applicant's attorney stating that houses and garages do not need to be on the same lot. 2nd by B. Reed. All in favor 5/0/0.**
- o **A. Kischitz motioned to request transfer of ownership, subject to the current owner providing documentation of sale. 2nd by B. Reed. All in favor 5/0/0.**

Administrative:

- Minutes from July 28, 2014 to be approved at the next meeting.

B. Reed motioned to adjourn the Zoning Board of Appeals meeting at 8:45 PM. 2nd by K. Stoner. All in favor 5/0/0.

Brad W. Ahearn 7/20/15

Clay

Colin D. Kilduff III

T. Rodney Reed

John Sargent

