**Planning Board Minutes**

DATE: February 3, 2016

Convened: 7:04pm

Members Present: Dave Killian, Russell Smith, Pam Marquis, Sheila McCarthy

OLD BUSINESS/ONGOING BUSINESS:

* True Green Capital and Brown & Rowe-reviewed the plans from the landscape architect-Josh Ensling, of True Green Capital, is here to present the revised set of drawings. These plans will change again due to drainage calculations being wrong. Pam asked about encroachments and Josh said they removed 2 rows of solar panels. They will submit the lease agreement stating that they are responsible for the road. There are revisions to the lease making it clear what TGC is responsible for. The Planning Board will keep one set of prints as a progress print. Michael Kluchman from Brown & Rowe, is the firm hired by the Planning Board, paid for by TGC. He showed several plans showing the topography of the land, the site lines from homes to the panels, and several plantings to add. Plan is to plant native conifers. Also recommended to coat the back of the panels with a dark paint to stop the glare, in the first 4 rows. The area of access road and basin is hard to cover with trees, they recommend to put up a fencing that will block/camouflage. White pine will get up in height, paired with other conifers that will fill in below. Replace the arborvitae with white spruce. Dave asked if anyone has any comments. Bob Sullivan asked if the abutters will be able to look at the plans. Mr. Stanley of Paige Hill Road, asked if there provisions in the plans to maintain the trees, so they continue to grow during the next few years to get them established. Michael will send PDF files of plans as well, the clerk will put them on the planning board website. The Planning Board clerk, will notify Bob Sullivan that the architect plans will be left in the Town Hall for abutters to view.

7:30- Large Scale Solar Bylaw discussion- Town Counsel will be present, all Town Boards have been invited to attend and give their input. Two Attorneys from Kopelman and Paige, Jonathan Silverstein and Jon Eichman, are present for town counsel. Dave discussed what the Planning Boards position is on the current amended bylaw. First question is are we too restrictive? Jonathan S. stated, you cannot prohibit and unreasonably regulate the use of solar, but he can’t not tell you what unreasonably means. No precedent has been made, thus cannot be looked at. The statute states you cannot prohibit you have to allow it. It will come down to how much is adequate and what is reasonable. You have to look at what land is available once you look at the amended law, is anything reasonably available. The area of concern is about limited to large scale, it does not mention small scale solar. Pam’s concern is that at last year public hearing the article as written did not include the language that was amended on town floor and was not vetted through the process. Sheila, asked for clarification under lot requirement it states a min of 5 acres and the max area of the project is 10 acres. When we are looking at this, you look at the 5 acre. Dave calls on Bob Sullivan as Town Clerk, who sent supporting information to the Attorney General. The business district is about 4.5%, take away all the land that is Army Core of Engineers, already developed, etc, it is less then 3%. Per Angela, of Conservation Committee and Open Space, there are only 16 parcels in town where it could be, then if it is in just the business zone it drops it down to 4 parcels, since most parcels are in Chapter Land. Boys Club, Trants, Babe’s Lawn Care and 1 more. Angela, speaking on behalf of the town, there are companies that are looking at the solar on the capped landfill, and National Grid approved it but with this bylaw it won’t allow it and that is a great reuse of land. Counsel stated that just because it is in Chapter land it can be taken out so those properties can be added to that. Roger Freeman, of Solventerra, who is working with Joe Ciesla, mentioned that the bylaw went from the possible to impossible. He suggested to look at the bylaw and change it to be more consistent to the state law. Under our current bylaws, solar use is not an allowed use. Sue Hilker, BOS, at the town meeting the selectmen put forth the bylaw that did not have that language in there, the amendment was made on town floor. Section 6.10 says that the site plan approval authority can waive and override. Counsel says, that planning board cannot change/waive the fundamental requirements of the bylaw.

Mike McFadden, from ZBA but not on behalf of the ZBA, stated that the voters and residents did not want to allow it in the residential/agricultural area, and changed the bylaw to restrict it to the commercial and asked that the planning board protect the intent of the bylaw. Nelson Burlingame, Building Commissioner, began with referring to the waiving sections: Read the bylaw, and as he interprets it that the Planning Board can waive anything. He would like Counsel to give answer to that, in writing. Per the Zoning law, only the ZBA can grant variances, not Planning Board. The phrasing in that section promotes uncertainty. During Site Plan review, it tells the developer how to develop the site. Angela, would like to submit residential clause to be included to up the lot requirements and increase the setbacks to 10 acres, or 300 foot setback, etc., Dave asked that it be put in writing, if any board had any recommendations that it be put in writing. Angela also asked that it be a requirement that conservation and planning are approving the same site plans and even hold joint meetings. Judy Carpenter, BOS and ZBA, asking if the boards want to know if the Planning Board, BOS, Conservation etc., can get together with counsel to get guidance together. Town Counsel agreed that they can do that. Mike McFadden, suggests to the board to improve the situation to allow Large Scale Solar in the Residential/Agricultural people would have to get a special permit. It would go case by case basis. If the Planning Board does everything by case by case basis, is that opening up the board for issues because some will be approved and others will not? Counsel stated that special permit gives the board the right to be able to go by case by case, and it can be denied. Adopt a regulation for peer consultant, which we have. Bob Sullivan, referenced to special permits, the law does not specify who can grant special permit. It should state in bylaw what board grants special permits. John Field, came forward to discuss how he did lots of research over the last few year on behalf of the Planning Board and based on what the town wanted for a solar bylaw. Dave asked John about the seminars that he went to on behalf of the planning board and John let him know about those. Nelson, is asking at what point are the applicants are in the system, if there is grandfather protection, it was determined that applicants need to have building permit in hand at the time of the bylaw that was in effect prior to the change in order to be grandfathered. Dave clarified that after a period of 2yrs and the applicant has taken no action is that considered abandonment. Roger Freeman, of Solventerra is requesting that the board put in a clear bylaw, so it is clear and the requests are not ongoing, clarity in the decisions, so companies to move forward. Dave stated that the Planning Board is here to get clarity from each board and from counsel. Bob Sullivan, BOA, stated that the initial tax agreement from the current RT20 solar firm, is nearly $80,000 and we collected almost 2 yrs. worth of taxes from them, so it does bring in tax monies. There is no burden to our roads and they don’t impact the schools, either. Can we make it so that solar is invisible from the eyes of neighbors? It makes a great revenue source. Angela, from Conservation, mentioned that the town makes money off leasing land, credits, electricity, taxes etc., it brings in much revenue. Dave asked Roger the net metering cap has been met, but it is on the floor to increase the cap. Sue Hilker, had a question about small residential solar, Roger from Solventerra answered her question. John Field, carports with solar at Tantasqua might be an idea. Pam asked counsel, if they could help with drafting a bylaw. Counsel said they could if the Planning Board gave them our vision, where do we want to allow the use, if special permits are required always or certain areas, if there is screening required, if planning requires specification in one district but not another. Roger thinks it would beneficial going forward to give the town a better understanding about the bylaw.

Sheila makes a motion to end the discussion on the Large Scale Solar Bylaw, Russell seconds all approved none opposed.

NEW BUSINESS:

 Angela, Open Space and Recreation Plan, an advisory committee but not regulatory. Needs a letter from Planning that we received it and reviewed it. Angela went over the proposal for the Planning Board. Pam asked what Angela needs from us, and she said that we just need to write a letter that states we support it or read it. Pam makes a motion that we write a letter to the appropriate state entity and deliver it to Angela, stating that we reviewed the Open Space Document, Sheila seconds and all in favor and none opposed.

OTHER: Reviewed minutes-Sheila made a motion to accept the January 13th minutes as amended. All in favor and none opposed.

* Review Mail

Next meeting to work on the bylaw draft – Monday, February 8th at 6pm. Things to think about would be adding solar to the list of allowable uses in the residential zone. Pam is asking if we should increase the lot size, for people to feel a little more protected. Sheila and Pam are concerned about special permit. Let everyone go home and think about something that is more comprehensive and thorough.

Sheila makes a motion to close the meeting at 9:43, Pam seconds all in favor and none opposed.