



OFFICE OF THE  
**PLANNING BOARD**  
TOWN HALL, 511 MAIN STREET  
DUNSTABLE, MA 01827-1313  
(978) 649-4514 FAX (978) 649-8893  
planning@dunstable-ma.gov

## **Planning Board Minutes Monday, November 5, 2018**

Approved: December 3, 2018

Chairman Josh Kelly at 7:30pm, called the meeting to order.  
Members present: George Basbanes, Joan Simmons, Joe VLcek, and Henry Fontaine  
Meeting held: At the Dunstable Town Hall, 511 Main Street, lower level

### **Meeting Minutes – October 15, 2018**

Joe made a motion to approve the minutes of the October 15, 2018 meeting, as submitted.  
George 2<sup>nd</sup> the motion. – Motion passed unanimously.

### **Bills and Payroll**

The Chair signed the invoice for P.M. Flaherty (Chapman St.) and payroll.

### **7:40pm –Special Permit Hearing–Borrego Solar Systems–Blodgett/Lowell St.**

Josh opened the hearing at 7:40pm and explained the procedure for the hearing. The Administrative Assistant read the hearing notice. Josh asked Borrego Solar Systems to present their project. David Albrecht introduced himself as the Principal Civil Engineer for Borrego Solar Systems. There were additional employees of Borrego in attendance including Ryan Bailey the Project Developer. Mr. Albrecht went over the existing conditions of the two parcels including the acreage, wetland delineation, district(s) and access to the sites. He described the project by saying that it meets all the required setbacks in the Zoning Bylaw. Two 7' tall chain link fences with a 6" wildlife gap on the bottom will encompass the 8,834.670 KW system. There will be two electrical equipment areas containing lithium batteries sitting on concrete pads. There will be a fire suppression system inside each unit. Inside the fenced area, trees will be removed and stumps ground. Outside the fence, trees will be cleared; however, the stumps will remain. The owners of the property were given the option to clear the site themselves. No materials other than trees will leave the site. Leases with the owners are for twenty years. Roughly, 22,653 modules (27 modules per string x 839 strings) will be installed. The panels are anywhere from 3 feet to 9 feet off the ground. The company will mow the site a couple times a year. Mr. Albrecht explained that Borrego finds sites, designs the project and then locates a company who will own the system. Borrego also maintains sites. There was discussion on the inflation escalation clause of the decommissioning bond. Members decided that the regulation could be interpreted two ways; therefore, the Board will revise their regulation for the future and accept the 125% escalation limit for this project (\$516,000). Other than a few items to work out, Jeff Rider stated that he was satisfied with the application. Alan Chaney (Conservation Commission) asked the Planning Board to add a condition to the Decision that no pesticides, herbicides, insecticides or fertilizers of any kind can be used on the parcels without the written approval of the Conservation Commission. The Fire Chief said he met with the applicants to go over the project; including training and safety of the lithium battery storage. He will meet with them again



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prior to the start of construction. The Fire Department supports the project.

**Findings and Determinations:**

Joe made a motion to accept the following specific findings and determinations regarding the land in question and proposed use:

- a. Above-mentioned lots met all the provisions listed in the Zoning Bylaw, Sections 6.8.3 and 25 – Solar Energy Systems, for a Large-Scale Solar Energy System.
- b. The proposed construction or use is consistent with the general purposes of the Zoning Bylaw with regard to large-scale solar energy systems located in both R1 Single-family Residential and B3 Expanded Commercial zones.
- c. The proposed construction or use will not impair the integrity of the district and adjoining districts. The project is located in backland lots and well off Lowell Street. There is another solar facility nearby in the Town of Tyngsborough.
- d. The proposed construction or use will not be detrimental to the health and welfare of the occupants and users thereof, and citizens of the Town, based upon the conditions of approval set for below. No pesticides, herbicides or insecticides will be used on either parcel. A 7-foot chain link fence will surround the solar equipment.
- e. The proposed construction or use will not be detrimental to the value of nearby property, based upon the conditions of approval set for below. All setbacks have been met and all proposed appurtenant structures will be sheltered from view by vegetation to avoid adverse visual impacts.
- f. Section 25.6 of the Zoning Bylaw requires that any fencing provided be compatible with the scenic character of the Town. The Plans show a 7-foot chain link fence around the two panel fields. Board determined that in this particular case where the fence is shielded from the road, a chain link fence is appropriate.
- g. Section 25.13 of the Bylaw requires that the components of the system be removed at the end of its useful life or if it is abandoned. The leases provided for review do not require the removal of any underground conduit or the access road. Section 25.13.3 allows for the owner or operator to not remove below grade foundations if approved by the Planning Board. Board determined to let the landowner decide if they want the conduit removed and if so, work that out with the applicant in their lease agreement.
- h. The Board determined that the application and the Plans comply with the design Criteria set forth in Section 25.4.2 of the Zoning Bylaw.



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- i. The Board determined that the application and the Plans comply with the requirements of Section 25.5 – 25.12 of the Zoning Bylaw.

George 2<sup>nd</sup> the motion. – Motion passed unanimously. Joan-yes, Henry-yes, Joe-yes, George-yes and Josh-yes.

**Waivers:**

Joe made a motion to approve the following waivers:

- 1) Section 3.03 3.04 that all plans shall be prepared at a scale of 1"=20';
- 2) Section 3.03 3.04 that trees twelve inches (12") or greater in diameter be shown on the plan;
- 3) Section 3.03 3.04 landscaping, which shall show all proposed landscaping features, screening, and each planting area with the size, type of tree, flower, ground cover, shrub and snow storage areas;
- 4) Section 3.03 3.04 lighting, which shall show location, size, height, and orientation of all outdoor lighting. The plan shall also show the type of fixture and wattage. The plan shall also show the distribution of illumination in foot-candle at ground level;
- 5) Section 3.04 Traffic Impact, a traffic report may be required by the Board, depending on the size and complexity of the proposed project. The extent and depth of the study will be set by the Board based on the anticipated impact of the project;
- 6) Section 3.06 Miscellaneous Information – Copies of all variances and Special Permits issued for the site or any property within 300 feet of the site shall be submitted with the application. Copies of all easements and deed restrictions related to the property, whether recorded or not, shall be submitted.
- 7) Section 3.07 Waivers The Board may also consider in their evaluation and decision, the volume, duration and pitch of any noise generated by the proposed project as well as any odor, or vibration caused by the project either during the construction or operation of the site.

George 2<sup>nd</sup> the motion. – Motion passed unanimously. Joan-yes, Henry-yes, Joe-yes, George-yes and Josh-yes.

**Conditions of Approval:**

George made a motion to place the following conditions on the special permit:

- A) The deed reference for the Kennedy parcel shall be added to the application.
- B) *Sections 25.4.1 (c) and 25.5.4 of the Bylaw requires that the plans list the name, address and contact information of the proposed installer. The spreadsheet states that Borrego is the general contractor for the project; however, the plans still states that they are assumed to be the contractor. Applicant will remove the word "assumed" from the plans.*
- C) *The plans call for grading the site to a maximum of 15% and a maximum grade on the access road of 10% however, no proposed contours are shown. The applicant must change the plans to reflect the actual grading.*



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- D) *The Narrative states that all utility connections will be underground; however, the plans show installation of several utility poles.* Applicant must update the narrative to reflect the plans.
- E) *The Emergency Service Plan lists the owner of the system as "TBD".* The owner information must be provided to the Planning Board prior to a Building permit being issued by the Building Inspector.
- F) A sample Decommissioning Bond was submitted by the Applicant. In accordance with Section 25.15, the Planning Board must receive a bond, approved by Town Counsel, prior to the issuance of a Building permit by the Building Inspector, to secure the decommissioning of the site.
- G) *On Sheet T-1 under the zoning information for Parcel 22-50 is the notation "SEE NOTE 5." There is no note 5 shown.* Either remove comment or show the note.
- H) The correct deed reference for Parcel 21-31-0 should be shown on Sheet C-1.0.
- I) No pesticides, herbicides, insecticides or fertilizers of any kind are to be used on the properties without the written approval of the Conservation Commission.
- J) The applicant shall abide by the Fire Chief's requests to insure the safety of the Fire Department and residents of the Town of Dunstable.
- K) Appurtenant structures shall be sheltered from view by vegetation to avoid adverse visual impacts, as shown on the Plans.
- L) A 7-foot chain link fence shall be installed around the site, as shown on the Plans.
- Joe 2<sup>nd</sup> the motion. – Motion passed unanimously. Joan-yes, Henry-yes, Joe-yes, George-yes and Josh-yes.

George made a motion to close the hearing and approve the Special Permit to construct a solar energy system on 0 Blodgett Street (21-3-0) and 0 Lowell Street (22-50-0) with the above voted Findings/Determinations, Waivers and Conditions. Joe 2<sup>nd</sup> the motion. – Motion passed unanimously. Joan-yes to approve, Henry-yes to approve, Joe-yes to approve, George-yes to approve and Josh-yes to approve.

**Plan approved:** Site Use Plans 0 Blodgett Road, Dunstable, MA" dated September 26, 2018 with a revision date of November 14, 2018

**9:10pm – Special Permit Hearing – Borrego Solar Systems – 446 Pleasant, 0 Groton Street, 0 Pleasant Street**

Josh opened the hearing at 9:10pm and explained the procedure for the hearing. The Administrative Assistant read the hearing notice. Josh asked Borrego Solar Systems to present their project. David Albrecht introduced himself as the Principal Civil Engineer for Borrego Solar Systems. There were additional employees of Borrego including Ryan Bailey the Project Developer. Mr. Albrecht went over the existing conditions of the three parcels including the acreage, wetland delineation, district(s) and access to the sites. He described the project by



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saying that it meets all the required setbacks in the Zoning Bylaw. Three 7' tall chain link fences with a 6" wildlife gap on the bottom will encompass the 11,246.040 KW system. There will be two electrical equipment pads containing lithium batteries. There will be a fire suppression system inside each unit. Inside the fenced area, trees will be removed and stumps ground. Outside the fence, the trees will be cleared; however, the stumps will remain. The owners of the property were given the option to clear the site themselves. The three parcels are under forestry management. No materials other than trees will leave the site. Roughly 31,779 modules (27 modules per string x 1177 strings) will be installed. There will be utility poles set back approximately 150' from the road near the entrance to the site. The entrance is through Wesley and Jodi Goss' parcel. The company will mow the site a couple times a year. The decommissioning estimate of this site is \$624,000. Other than a few items to work out, Jeff Rider stated that he was satisfied with the application. Alan Chaney (Conservation Commission) asked the Planning Board to add a condition to the decision that no pesticides, herbicides, insecticides or fertilizers of any kind can be used on the parcels without the written approval of the Conservation Commission. He also asked that a condition be added stating that all directives from Natural Heritage and MESA be followed in order to protect the endangered species in the area. The Fire Chief said he met with the applicants to go over the project; including training and safety of the lithium battery storage. He will meet with them again prior to the start of construction. The Fire Department supports the project. A resident across the street from the parcel asked about emittance of large amounts of Electromagnetic. Mr. Albrecht said that EMS is everywhere and is minimal that distance from the site.

**Finding and Determinations:**

Joe made a motion to accept the following specific findings and determinations regarding the land in question and proposed use:

- a. Above-mentioned lots met all the provisions listed in the Zoning Bylaw, Section 6.8.3 and Section 25 – Solar Energy Systems, for a Large-Scale Solar Energy System.
- b. The proposed construction or use is consistent with the general purposes of the Zoning Bylaw with regard to large-scale solar energy systems located in the R1 Single-family Residential District.
- c. The proposed construction or use will not impair the integrity of the district and adjoining districts. 446 Pleasant Street (7-3-0) will be used **only** as an access to 8-37-0, 8-39-0 and 8-43-0. The project is located well off Groton and Pleasant Streets.
- d. The proposed construction or use will not be detrimental to the health and welfare of the occupants and users thereof, and citizens of the Town, based upon the conditions of approval set forth below. No pesticides, herbicides or insecticides will be used on any of the parcels with solar equipment. A 7-foot chain link fence will surround the solar structures.



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e. The proposed construction or use will not be detrimental to the value of nearby property,

based upon the conditions of approval set forth below. All setbacks have been met and all proposed appurtenant structures would be sheltered from view by vegetation to avoid adverse visual impacts.

f. Section 25.6 of the Zoning Bylaw requires that any fencing provided be compatible with the scenic character of the Town. The plans show a 7-foot chain link fence around the three panel fields. The Board determined that in this particular case where the fence is shielded from the road, a chain link fence is appropriate.

g. Section 25.13 of the Bylaw requires that the components of the system be removed at the end of its useful life or if it is abandoned. The leases provided for review do not require the removal of any underground conduit or the access road. Section 25.13 allows for the owner or operator to not remove below grade foundations if approved by the Planning Board. The Board determined to let the landowner decide if they want the conduit removed and if so, work that out with the applicant in their lease agreement.

George 2<sup>nd</sup> the motion. – Motion passed unanimously. Joan-yes, Henry-yes, Joe-yes, George-yes and Josh-yes.

**Waivers:**

Joe made a motion to approve the following waivers:

- 1) Section 3.03 3.04 that all plans shall be prepared at a scale of 1"=20');
- 2) Section 3.03 3.04 that trees twelve inches (12") or greater in diameter be shown on the plan;
- 3) Section 3.03 3.04 landscaping, which shall show all proposed landscaping features, screening, and each planting area with the size, type of tree, flower, ground cover, shrub and snow storage areas;
- 4) Section 3.03 3.04 lighting, which shall show location, size, height, and orientation of all outdoor lighting. The plan shall also show the type of fixture and wattage. The plan shall also show the distribution of illumination in foot-candle at ground level;
- 5) Section 3.04 Traffic Impact, a traffic report may be required by the Board, depending on the size and complexity of the proposed project. The extent and depth of the study will be set by the Board based on the anticipated impact of the project;
- 6) Section 3.06 Miscellaneous Information – Copies of all variances and Special Permits issued for the site or any property within 300 feet of the site shall be submitted with the application. Copies of all easements and deed restrictions related to the property, whether recorded or not, shall be submitted.
- 7) Section 3.07 Waivers The Board may also consider in their evaluation and decision, the volume, duration and pitch of any noise generated by the proposed project as well as any



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odor, or vibration caused by the project either during the construction or operation of the site.

George 2<sup>nd</sup> the motion. – Motion passed unanimously. Joan-yes, Henry-yes, Joe-yes, George-yes and Josh-yes.

**Conditions of Approval:**

George made a motion to place the following conditions on the special permit:

- A) The project is located in Priority Habitat and Estimated Habitat for Threatened Species and Species of Special Concern and has been issued a tracking number from the Massachusetts Division of Fisheries & Wildlife. The Division as per their letter dated April 12, 2018 must review the project further and the applicant shall follow all of the state's directives.
- B) Section 25.9.3 of the Bylaw requires that all large systems in the R-1 Zone maintain a 100-foot setback from all property lines. *The plans show solar panels installed in the setbacks on both sides of the property line between Parcels 8-43-0 and 8-39-0.* An Approval Not Required (ANR) plan shall be submitted prior to the issuance of a Building Permit to consolidate the parcels and eliminate the line.
- C) *Sections 25.4.1 (c) and 25.5.4 of the Bylaw requires that the plans list the name, address and contact information of the proposed installer. The spreadsheet states that Borrego is the general contractor for the project; however, the plans still states that they are assumed to be the contractor.* Applicant will remove the word "assumed" from the plans.
- D) *The plans call for grading the site to a maximum of 15% however, no proposed contours are shown.* The applicant must change the plans to reflect the actual grading.
- E) *The Narrative states that all utility connections will be underground; however, the plans show installation of several utility poles.* Applicant must update the narrative to reflect the plans.
- F) *The Emergency Service Plan lists the owner of the system as "TBD".* The owner information must be provided to the Planning Board prior to a Building permit being issued by the Building Inspector.
- G) A sample Decommissioning Bond was submitted by the Applicant. In accordance with Section 25.15, the Planning Board must receive a bond, approved by Town Counsel, prior to the issuance of a Building permit by the Building Inspector, to secure the decommissioning of the site.
- H) No pesticides, herbicides, insecticides or fertilizers of any kind are to be used on the properties without the written approval of the Conservation Commission.
- I) The applicant shall abide by the Fire Chief's requests to insure the safety of the Fire Department and residents of the Town of Dunstable.
- J) Appurtenant structures shall be sheltered from view by vegetation to avoid adverse visual impacts, as shown on the Plans.
- K) A 7-foot chain link fence shall be installed around the site, as shown on the Plans.



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Joe 2<sup>nd</sup> the motion. – Motion passed unanimously. Joan-yes, Henry-yes, Joe-yes, George-yes and Josh-yes.

George then made a motion to close the hearing and approve the Special Permit to construct a solar energy system on 446 Pleasant Street (7-3-0) (site access only), 0 Pleasant Street (8-43-0), 0 Groton Street (8-37-0) and 0 Pleasant Street (8-39-0) with the above voted Findings/Determinations, Waivers and Conditions. Joe 2<sup>nd</sup> the motion. – Motion passed unanimously. Joan-yes to approve, Henry-yes to approve, Joe-yes to approve, George-yes to approve and Josh-yes to approve.

**Plan approved:** Site Use Plans 0 Pleasant Street, Dunstable, MA” dated September 26, 2018 with a revision date of November 14, 2018

**Additional Topics Discussed Not Noted on the Agenda**

George made a motion to close the meeting at 10:09pm. Joe 2<sup>nd</sup> the motion. – Motion passed unanimously. The next meeting of the Planning Board will be held on Monday, November 19, 2018.

Respectfully submitted,

Cheryl A. Mann  
Administrative Assistant  
Dunstable Planning Board