

PLANNING BOARD MEETING of January 14, 2014: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

Chairperson, Wayne Hayward - Opened the meeting at 6:30pm. Mr. Hayward indicated to the Board and Public that the meeting was being recorded.

Quorum/Attendance

Members Present – Chairperson, Wayne Hayward, Vice Chairperson, Gary Staffon, Francis Budryk, Kaisa Cripps, Rene Fleurent Jr. , Jeffrey Lucas and Peter Nopper.

Absent: John Farrell, Jr.

Planning Director William Roth was in attendance.

Gary Staffon made a motion to approve the December 17, 2013 minutes and was seconded by Kaisa Cripps.

On the question, Jeffrey Lucas made a correction to Page 2, “what the steps may be as needed.” Mr. Lucas also had a correction that it should read 50-2 bedroom units.

Wayne Hayward also had a couple of amendments to the minutes. Mr. Hayward referred to the 1st page, and his opening regarding the meeting not being recorded, should also say “by Government Access, therefore anyone with a video recording would have to advise the Chair.” Mr. Hayward also made a correction to page 1 where it read “what the ramification would be to the Planning Board funding, that that should be stricken, and should read “what the ramification would be to the permitting process.” He also made a correction to page 2 the last paragraph should read, “Wayne Hayward said that this would be the closest property to the Wind Turbines within 1000’.” Mr. Hayward asked that flood ‘plans’ be corrected from flood ‘plains’ . And that on page 3, ‘nor does the Board of Selectman’ be stricken.

With these amendments, the motion passed unanimously.

Planning Board Bills:

1. Office Supplies – Staples - \$257.77

Gary Staffon made a motion to pay the bill for Office Supplies to Staples for \$257.77 and was seconded by Jeffrey Lucas. The motion passed unanimously.

Wayne Hayward announced to the Public and audience that there is a Special Town Meeting on February 12, 2014, at 7:00 p.m. at Hastings Middle School. He said that the Planning Board has two articles on the Warrant, one is the Medical Marijuana By-law and the second is the Medical Marijuana Moratorium.

II. CURRENT PLANNING:

Receipt of Plans:

None.

Approval of Plans:

None.

III. PUBLIC HEARING:

1. Special Permit – **BlueWave Capital, LLC** – 211 Mill Road – (con’t from 12/10/13)

William Roth went over his Memorandum #2 with the Board members. He recommended an approval with the 16 Special Conditions as listed in his report.

Engineer, Rick Charon then addressed some of the conditions. In particular, regarding the three cutting, he said it would be approximately 40 trees that would be cut and replaced with 6' trees, on a 1:1 basis. For every tree they cut down, they would replant a tree within the area it was cut.

Kaisa Cripps wanted to clarify that at last meeting they said 60% of the trees would be cut down and in her opinion, that would be clear cutting. Ms. Cripps clarified that any tree that got cut down would be replaced, correct?

Mr. Charon said, 'yes.'

Francis Budryk said that the property is now considered in an agricultural district and he asked whether that would change to have some tax benefit to the Town.

Mr. Charon said yes there would be a benefit for the Town for tax revenue.

Gary Staffon asked about the topping of all trees at 8'?

Discussion ensued on the trees and topping them.

Francis Budryk asked about the right of first refusal that the Board of Selectman is doing.

William Roth explained that the Board of Selectman had the property appraised and has made an offer to purchase the leased area per MGL 61A. Mr. Roth explained that if the Town was successful in buying the property. The Special Permit while approved, may not be able to be acted upon if the Town wanted to use the property for a different purpose.

Wayne Hayward asked why the Town would want to buy it.

Mr. Charon said this was a legal issue and they don't have all the information.

Discussion on MGL Chapter 61A and 1st right of refusal ensued.

Gary Staffon said that he did a little research on-line and came across "dirty electrical" in reference to antennas, cable, etc. He asked Mr. Charon if he has heard of this terminology.

Mr. Charon said he had not heard of the term. He explained that the panels operate on DC mode and was converted to AC before it entered the grid.

Wayne Hayward explained that sometimes with low-end converters you tend to get dirty electrical, but he said in these cases this is a utility grade, high-end converter. They shouldn't be worried.

Kaisa Cripps said she would feel more comfortable if BlueWave had a 10 acre lease area. She expressed concern that this would set precedent for future projects and she would like to be more consistent going forward in Fairhaven.

Mr. Charon stated that the panels wouldn't cover the whole 10 acres because they needed to meet setbacks.

Wayne Hayward said that 10 acres gives breathing room.

Ms. Cripps said that this is a 31 acre site and that Mr. Denormandie could lease another areas to someone else for something else and that she had a concern about that.

Discussion on the lease area verses the parcel size ensued.

Jeffrey Lucas agreed and asked about the ring road around the site. He said that in looking at things in their design he felt there were things they were not adhering to, one being the 10 acres.

Rene Fleurent said the by-law says '10 acre parcel'.

Kaisa Cripps argued they don't have a right to use 10 acres.

More discussion ensued.

Wayne Hayward stated that the by-law reads a 10 acre parcel, not a lot.

Jeffrey Lucas said what if he had 15 acres in a parcel and he leased 6 acres for solar panels, could he then use 9 acres for a mini mall?

Gary Staffon said in his opinion, this project is sitting on a 31 acre site, with 6 acres being leased. "For me, it's on a 10 acre site," he said.

Kaisa Cripps disagreed. "They only have use of 6 acres," she said.

Mr. Charon said if they looked at the wetland restriction the best part of this land is being tied up with this solar project.

Jeffrey Lucas said he did not want to see a precedent being set. If our by-law says 10 acres and we approve the first application with 6 acres, we're setting a precedent.

Wayne Hayward stated that if someone came in with 6 acres they wouldn't be in compliance.

Francis Budryk said, "Will you listen to what he's saying, we're arguing about six to one and half a dozen of another. Let's move on."

Rene Fleurent Jr., read from the by-law 198.29.6 page, 54 (Section G, 1 A), "Be located on a parcel of land that contains a minimum of ten (10) acres when in the RR, B, I AG or WRP districts." He said we don't define how it needs to be carved out, our by-laws don't specify and that they are clearly on a parcel of land that contains a minimum of 10 acres.

Kaisa Cripps said that they're lease says it's a 6 acre parcel of land.

More discussion ensued on the by-law and its interpretation.

Jeffrey Lucas asked about a discussion they had at the previous meeting regarding noise and that he remembered that Mr. Roth was going to put in a condition about the noise.

Mr. Roth stated he didn't recall that issue.

Rene Fleurent, Jr. stated that he did remember a discussion on noise.

Mr. Roth read from the applicant's proposal what the noise decibel level would be. Mr. Roth said he doesn't see noise as an issue.

Brief discussion on noise ensued.

Kaisa Cripps asked if they have to make a sub-decision on 6 acre lease area or 10 acres?

Wayne Hayward said he wasn't sure he understood what a sub-decision was.

Kaisa Cripps asked for a straw vote on whether the Board members felt that the 6 acre lease area within the 31 acre parcel would be considered in compliance with the by-law.

Wayne Hayward asked for the straw vote and 5 members (Rene Fleurent, Jr., Peter Nopper, Wayne Hayward, Gary Staffon and Francis Budryk) voted yes it would be in compliance. Kaisa Cripps and Jeffrey Lucas voted that it would not be in compliance.

Francis Budryk made a motion to approve the Special Permit for BlueWave Capital, LLC with the 16 Special Conditions as outlined by Town Planner, William Roth and was seconded by Rene Fleurent, Jr. The motion passed unanimously.

IV. LONG RANGE PLANNING

1. Zoning Reform Bill
No new information
2. Master Plan Discussion
No new information

V. CORRESPONDENCE:
None

VI. OTHER BUSINESS:

1. Review and Discuss FY15 Budget

William Roth briefly went over the FY '15 Proposed Level Funded Budget. He pointed out expenditures to date.

Gary Staffon made a motion to propose a level funded budget for FY '15 and was seconded by Wayne Hayward. The motion passed unanimously.

William Roth explained that it was his understanding that the phone line item was going to be removed from all of the departments in Town Hall and consolidated into one Town Hall phone budget because of how the new phone system works.

Kaisa Cripps asked if it was necessary that they add a line item for Legal Expenses in the budget.

Wayne Hayward advised that the Board of Selectman control the legal budget and the Planning Board as with ever other department or Board has to request use of legal services.

Francis Budryk made a motion to adjourn, and was seconded by Gary Staffon. The motion passed unanimously.

Meeting adjourned at 7:47 p.m.

Respectively submitted,

Patricia A. Pacella
Recording Secretary