

DATE: December 8, 2011
TIME: 6:00 P.M.
PLACE: Fire Station
FOR: Regular Meeting
PRESENT: Jonathan Hankin, Chairman; Suzanne Fowle Schroeder; Jack Musgrove;
Ethan Culleton; Richard Dohoney
Brandee Nelson, Associate Member
Chris Rembold, Town Planner

Mr. Hankin called the meeting to order at 6:00 P.M. Mr. Culleton and Mr. Dohoney had not yet arrived.

FORM A's:

There were no Form A's presented.

MINUTES: NOVEMBER 10, 2011

Ms. Schroeder made a motion to approve the minutes of November 10, 2011 as amended, Mr. Musgrove seconded, all in favor.

ZONING BYLAW AMENDMENTS FOR THE MAY 2012 ANNUAL TOWN MEETING:

There were many people in the audience. Mr. Hankin announced that the Board would not be discussing the solar farm proposed for Seekonk Road. He said there would be discussion of a bylaw to address solar photovoltaic energy.

Mr. Hankin said the Wireless Telecommunications Overlay District has a review period of 15 days. He said we want to propose to amend the bylaw to extend the review period to 30 days.

Mr. Musgrove said it doesn't make sense not to extend the review period.

Mr. Rembold said the time frame is not adequate for comments.

Mr. Musgrove made a motion to send the modification of the Wireless Communications bylaw to the Selectmen, Ms. Schroeder seconded, all in favor.

Mr. Hankin said when the bylaws were recodified there was an omission regarding contextual setbacks. The issue has come before the Board and it has been discussed that it should be put back in the bylaw.

Mr. Musgrove made a motion to send recommendation to the Selectmen to add the contextual setbacks to the bylaws, Ms. Schroeder seconded, all in favor.

SOLAR PHOTOVOLTAIC ENERGY OVERLAY DISTRICT

Mr. Hankin said Massachusetts general law 40A does not allow a town to prohibit or unreasonably regulate the installation of solar panels except for health, safety or public

welfare concerns. Our bylaws do not address the issue. It is understood that if a use is not specifically permitted in our bylaws it is prohibited. He said that is in conflict with MGL 40A Section 3.

Mr. Hankin said he had a discussion with Town Counsel regarding this issue and Town Counsel advised that 40A would overrule the town bylaw or lack thereof.

Mr. Hankin said there have been two Selectboard meetings dealing with the proposed solar farm on Seekonk Road. Everyone has been opposed to the proposal. The Chairman of the Board of Selectmen commented that the proposal had to be stopped at all costs and directed the Town Manager to work with the Planning Board to draft a bylaw.

Mr. Culleton arrived.

Mr. Hankin said this is an issue of great interest as supported by the audience in attendance. He said he wanted to begin the process by determining what the board thinks ought to be its goals for the bylaw. He polled the board.

Mr. Musgrove said he thought the Board should start with an overlay district in the same way we approached the wireless telecommunications bylaw. He said landowners who are interesting in providing land for this type of energy should be identified then a determination can be made as to the appropriateness of the location. He suggested that residential land might not be appropriate.

Mr. Hankin said his initial take on the issue is that it was easier to identify suitable land for cell towers as they had specific requirements. There were only a few locations that met those criteria. He said he did not feel it was the job of the Planning Board to ask landowners if they want to provide land for solar energy.

Mr. Culleton said he would expect that optimal areas would be higher elevations with southerly orientation. He said there would only be so many areas that would meet those criteria. He said we don't want to clear cut land. He said he is not sure zoning is relevant for siting. Mr. Culleton asked if the panels could be placed on buildings.

Formatted: Not Highlight

Mr. Dohoney arrived.

Ms. Nelson said there can be weight issues with placing the panels on buildings.

Mr. Hankin said perhaps the scale of panels on buildings should be regulated.

Ms. Nelson agreed the scale should be regulated for larger facilities, although she expressed concern that technology is rapidly changing and panel size could be getting smaller in the coming years. She said that perhaps instead of an overlay district it would be better to look at the criteria to address site sensitivity issues. She said this type of

energy and the Town setting goals for energy production has been a topic at the Energy Committee meetings.

Ms. Schroeder said it is important to address all of the issues, good and bad. If part of the goal is to reduce the carbon footprint and being less fuel dependent then we need to consider how best to do that. We are talking about trading our agricultural lands for energy. How much are we protecting our land? If the day comes when the panels are removed can the fields revert back to agricultural land? She suggested it might be better to encourage placement on roof tops. She said if we write a bylaw it could provide an opportunity to delve into the issues and address our concerns. We want to focus on reducing our carbon footprint. It is discouraging that 17 acres of land can provide energy to only 500 homes.

Mr. Hankin said 120 acres could conceivably power all the homes in town. That, for him, is encouraging.

Mr. Rembold said 1 megawatt powers 1,000 homes.

Mr. Dohoney said the ultimate question is whether we should write a bylaw. He said he is not sure any regulation should address one of the most important issues facing our town and country. He said it is very difficult to make a decision to regulate. There is a fear that it would prevent anyone from pursuing this energy source which would be a very negative approach. He said we want to encourage it in the places that are most appropriate. Zoning tends to be very restrictive. He suggested that if we were to require a special permit, we would never see any solar farm developers wanting to work in our town.

Mr. Musgrove said there are approximately 46 square miles of land in town, 29,280 acres. He said approximately 20,000 acres are forest, 7% is cropland and 4% non forested wetland. There are 804 acres of low density residential open land and 396 acres open land not agricultural.

Mr. Rembold said one third of the town land is protected, 54% is R-2 and 90% R-2 or R-4.

Mr. Hankin said a model bylaw approach would be to identify areas where it would be acceptable to make the use by-right. The last two Selectmen's meetings have questioned if solar energy should be under a special permit process. Perhaps we should attempt to identify parcels that meet criteria based on physics of solar siting. Put in filters such as slope, wetlands, shading. Looking at parcels under these conditions will result in not too many available sites.

Ms. Nelson asked if we are qualified to make the assessment of which criteria are most appropriate for a solar installation.

Planning Board
December 8, 2011
Page 4

Mr. Hankin said no. He asked if this project would fall within BRPC services.

Mr. Rembold said no but he would ask.

He asked if BRPC would be able to do an overlay of the zoning map with some of the filters discussed.

Mr. Rembold said if the Board had specific criteria it would be a place to start. He said perhaps solar companies should be contacted to help identify the necessary criteria.

Mr. Hankin said he had not specifically asked Mr. Rembold for his opinion on the issue as he works for the Town Manager who through the Selectmen wants the solar proposal for the Shaw farm stopped.

Mr. Rembold said he would not address the proposal for the Shaw property but he said solar energy needs to be dealt with sooner or later and sooner would be better than later. He said the Town would have less control over placing solar energy sites if the control is left to state law. He said it would be good to try to address size and scale of projects. He said the Board needs to figure out how they want to go about addressing the issue, everything on a roof top would be by-right; industrial and business zones by-right; residential zones by special permit? The Board will need to decide what approach to take.

Mr. Hankin said maybe you have more faith in zoning than I do but why do we need to control?

Mr. Rembold said he didn't mean control as in prohibit or overly regulate. He said the goal is to be proactive so as not to settle in court.

Mr. Dohoney said this issue is too important to worry about the minutia of government. He said he is not concerned about anything getting settled in court. The ultimate charge of this Board is what we want to determine. What we want to do. It is unacceptable to say no to solar energy.

Ms. Nelson said that if they can ultimately get more kilowatts out of an acre then a bylaw could be unnecessarily restrictive.

Mr. Hankin said we don't know anything about this technology. We need an expert to tell us what works. He said we are not sure what restrictions might make sense.

Mr. Dohoney said we can't say where to put the panels. We can't predict what property owners might do.

Planning Board
December 8, 2011
Page 5

Ms. Nelson said we as a society are very disconnected from the cost of our power. We all need to take responsibility for the amount of power we use. We as a Board need to determine what tools we can use to make sense of the issue and determine if we need a new bylaw or use what we have.

Mr. Hankin said there is no argument that site plan review would be implemented for reviewing any proposal for a major solar installation. We could use site plan review to help shape projects. We would not have the power to say no. Mr. Rembold said that Massachusetts General Law says there are certain public goods that can not be prohibited by zoning and for some reason solar energy has been lumped in. The Board needs to determine where they stand on the issue. It seems that Mr. Dohoney thinks we should let 40A ride. Mr. Hankin said he hasn't heard anyone on the Board disagree outright.

Ms. Nelson said she didn't think Mr. Hankin wanted special permit to rule.

Mr. Hankin said a special permit would mean approving with conditions or saying no. Under 40A it does not sound like we can say no unless there is a public health or safety issue. If we identify 15 acres where we think a project might work in terms of physics it might be reasonable that it could be approved by-right. It could be a mistake to impose special permit regulations. Site Plan Review makes a project viable, special permit may be too political.

Mr. Dohoney said if we make special permit a requirement we won't see an application.

Mr. Musgrove said a bylaw could steer us to what we want.

Mr. Hankin said it would have to be viable.

Mr. Rembold said the Board might make 1 megawatt by-right.

Mr. Hankin said he didn't want to deal with those specifics. Developers have a scale trigger to make a project commercially viable. We need to have some of that information.

Mr. Dohoney said maybe we should have a discussion not on what we want to do but how we answer these questions.

Mr. Musgrove said the Board should have some professional help someone who understands solar energy.

Planning Board
December 8, 2011
Page 6

Ms. Schroeder said any solar engineer would go for the sites that make sense. Mr. Dohoney is concerned that any regulation would throw cold water on the whole idea, but a bylaw can also encourage solar power.

Mr. Musgrove said if the use is by-right then the Building Inspector would be able to issue permits.

Mr. Dohoney suggested looking at the land regardless of zoning then mark what could be available.

Mr. Hankin suggested that parcels of at least 20 acres be allowed to be considered.

Mr. Culleton said it would be interesting to know how the Shaw property was chosen.

Mr. Hankin said he is not sure.

Mr. Rembold said the current build out map identifies wet and built on land. We could take out agricultural land or land in 61A to come up with possible parcels to apply criteria to.

Mr. Hankin asked if this is a very complex process.

Mr. Rembold said no.

Mr. Hankin said we have heard from one developer. There are many more out there and we want to encourage as many as possible to look at our town. The more we look at this the more we will come to realize it was not by accident that they ended up at the Shaw farm. He asked Mr. Rembold if he could put together a map.

Mr. Rembold said he did not know how long it would take but he would work on a map.

Mr. Hankin said it will take as long as it takes. If we miss this annual town meeting there will be another.

Mr. Hankin said he wanted to clarify the Board's intent. He said some may think we are doing this to stop a solar farm on the Shaw property. It is not our goal to stop solar energy from coming to town. We want to be a green community and be proactive.

The Board agreed with Mr. Hankin's comment.

Mr. Rembold asked if the Board wanted to reach out to other boards.

Planning Board
December 8, 2011
Page 7

Ms. Nelson said the Energy Committee will be going to Berkshire School to look at the solar panels that were installed there. She said she would let the Board know when that visit is scheduled so the Planning Board could join.

TOWN PLANNER'S REPORT:

Mr. Rembold reminded Mr. Musgrove and Mr. Dohoney to do their ethics training.

SITE VISIT:

The Board scheduled a site visit for 178 Main Street for 6:30 P.M. on January 12, 2012. There will be no meeting on December 22.

Mr. Musgrove made a motion to adjourn, Mr. Dohoney seconded, all in favor. The meeting adjourned at 7:30 P.M.

Respectfully submitted,



Kimberly L. Shaw
Planning Board Secretary

