

PLANNING BOARD

DATE: April 28, 2016

TIME: 7:00 P.M.

PLACE: Large Meeting Room

FOR: Regular Meeting

PRESENT: Jonathan Hankin, Chairman; Suzanne Fowle; Jack Musgrove; Brandee Nelson;
Malcolm Fick
Jeremy Higa, Associate Member
Chris Rembold, Town Planner

Mr. Hankin announced that the meeting was being recorded.

Mr. Hankin opened the meeting at 7:00 P.M.

FORM A's:

There were no Form A's presented.

MINUTES: APRIL 14, 2016

Ms. Fowle made a motion to approve as amended, Mr. Musgrove seconded all in favor.

COMMERCIAL SCALE SOLAR IN SUPPORT OF AGRICULTURE:

Henry Barrett was present to discuss a possible commercial solar installation on West Plain Road, an R-4 zone. The property is owned by Robert Coons who was also present.

Mr. Hankin said the Planning Board had had a long discussion about commercial solar arrays in 2012. It was decided, at that time, that there would be no attempt to create a zoning regulation.

Mr. Musgrove asked if the solar array would be ancillary to the farm use currently on the property.

Mr. Barrett said no.

Mr. Musgrove said if this were a giant generator there would be no discussion. He said he thinks it would be an ancillary use to the agricultural use.

Mr. Barrett said it would not be ancillary.

Ms. Fowle asked how many acres would be dedicated to the use.

Mr. Barrett said about 10 acres.

Ms. Fowle noted that there are wetlands on the property.

Mr. Barrett said the project would stay out of the wetland buffer zone.

Mr. Hankin said this is not yet an actual proposal but something for the Town to consider if it wants to allow this use on agricultural land.

Mr. Fick said the Department of Public Utilities allows this use under CMR 220 Section 18.

Mr. Musgrove said it is allowed in the Industrial Zones and the B Zones.

Mr. Rembold said half a mega watt is allowed by right in the I zone. The Selectboard allowed the array at the Fairgrounds with a special permit.

Mr. Hankin said the Town cannot prohibit the use or unreasonably regulate it under state law.

Ms. Nelson said we did not think we needed to adopt a bylaw. We felt in our previous discussion that the State regulations were sufficient.

Mr. Hankin said that is true. He said Mr. May, the Building Inspector, would like some direction for the Board. He said the Master Plan supports solar arrays as a way to keep agricultural uses going.

Mr. Musgrove said it seems that with the State regulations and the Master Plan it should be allowed. He suggested sending a letter to Mr. May stating there is a clear path to grant a building permit for the solar array. He said if the State law was so clear that we didn't create a new bylaw then we should follow the State law.

Mr. Fick said there is a solar array on Route 23 in New York State on the way to the Taconic State Parkway that is very ugly.

Mr. Musgrove said we can't say where they can go.

Mr. Fick asked if a submission would be subject to Site Plan Review so there could be conditions.

Mr. Rembold said yes.

Mr. Fick is in favor of solar. He said he remembers the discussion the Board had a few years ago. He said the Board felt it was too difficult to address. He said he agreed with Mr. Musgrove.

Mr. Hankin said a letter from the Board is not going to be sufficient for Mr. May. He said he believes Mr. May will require a decision from the ZBA.

Mr. Musgrove asked if the ZBA had been asked to make a ruling.

Mr. Barrett said we will do that if that is what is required.

Mr. Musgrove said we should write a letter explaining that we looked at the issue and determined that we didn't need to write a regulation and that the Master Plan addresses the use saying that it is a good adjunct to an agricultural use. He said it should be allowed on the West Plain Road property. Mr. May can deny the building permit then it can be appealed to the ZBA.

Mr. Rembold said that is one way it can happen. He said the ZBA is the body charged with interpreting the bylaws.

Mr. Hankin asked what the applicant is looking for.

Mr. Rembold said they want a building permit. He said he appreciates that we are trying to find a path to allow the use. He said this is good. He said what hasn't been discussed are the broader implications. Mr. Rembold said one path is to apply for a permit, have it denied and appeal it. Another path would be to submit a request to the Building Inspector for a zoning interpretation. He would be required to respond within 10 days. If the interpretation is not agreed with it can be appealed to the ZBA.

Ms. Fowle said the Master Plan supports alternative energy but the use would take the land out of agricultural use.

Mr. Barrett said typically the lease runs for 20 years then the land can be returned to its original condition. We would put up a decommissioning bond.

Ms. Fowle asked is anyone has decommissioned a site and returned it to its original use.

Mr. Barrett said no but it would not be a problem. Mr. Coons concurred.

Mr. Rembold said the goal is for a win win situation for both the agricultural use and the solar use. He said the solar installation needs to be done responsibly so the land would be returned to its original condition.

Mr. Musgrove asked if we should have a bylaw to allow solar anywhere.

Mr. Rembold said no.

Mr. Hankin said as a green community there are certain things that would be allowed by right.

Mr. Rembold said that is correct.

There was further discussion of adding solar to the Table of Use allowing in some zones but not necessarily in all zone. As long as the use is allowed in some areas it is not required to be allowed in all zones.

Mr. Musgrove asked Mr. Rembold if they should write a letter to the Building Inspector for a zoning interpretation.

Mr. Rembold said yes to ask for a broader interpretation.

Mr. Higa asked about noise and how the energy is collected.

Mr. Barrett said the energy is sent through an inverter that feeds a transformer that sends the energy to the grid. There is no noise at 100 feet from the units.

Ms. Fowle said that sheep seem to be compatible with solar arrays. She said there is information available.

Mr. Rembold said the land is currently in Chapter 61A. If the project goes forward it would need to be allowed by the BOS to come out of Chapter 61A. If the agricultural use is continued the land could remain in Chapter 61A. The Selectboard has the right of first refusal. If they don't exercise that right does that mean they agree to allow the use?

Ms. Fowle said when the solar array was installed on Van Deusenville Road it was extremely noisy. She said noise during installation would need to be addressed during Site Plan Review.

Mr. Rembold said the array at the Fairgrounds went in without any problems.

Ms. Fowle said she didn't know why the noise ordinance wasn't enforced for the Van Deusenville project. She said many people complained. It was really loud.

There was some further discussion about the installation.

Mr. Rembold said the Master Plan talks about renewable energy and agriculture. It needs to be considered if solar should be allowed everywhere.

Ms. Nelson said we need to be responsible for the energy we use.

Ms. Fowle said we need to be careful about setting a precedent. We have to wait a year to prepare for next year's Annual Town Meeting where we could put regulations in place.

Ms. Nelson said we don't have many tools in our toolbox to apply at this time. She said it would be good to have community input.

Mr. Hankin asked if there are community solar farms.

Mr. Barrett said he hasn't seen one in operation.

Mr. Hankin said maybe we should look at a model bylaw after the Annual Town Meeting so we can have some direction.

TOWN PLANNER'S REPORT:

Update on nonconformities in MXD zone and re: the Multifamily amendment

For the multi family zoning amendment (Article 22), it is safe to say of the 50 properties listed as 3-family uses or greater, 10 or fewer have the required special permits. The others may be legally preexisting nonconforming. While that helps them meet zoning, it does throw roadblocks into the process for investing in and improving the property.

For the MXD zone on south Main Street (Article 21), I looked at B2 dimensional requirements versus the use of the property only. Out of approximately 80 parcels, 30 are nonconforming as to frontage (39%); 32 are nonconforming as to area (41%); 55 are nonconforming as to front setback (70%); 30 are nonconforming as to side setback (39%); and 10 are nonconforming rear yard (13%).

The MXD amendments would allow those existing dimensional conformities to remain

The MXD dimensional requirements are in line with what exists now in the area. The lot area required in MXD would be 5,000 sf, currently the typical lot are 10,000 to 20,000 sf, some at 6,000. The width required would be 50 feet, and the current typical width is 60 to 100 feet, or less. The front setback would be 15 feet, and the typical front now us 10 to 20 feet. Some at less than 10.

The Board discussed the motions for the Annual Town Meeting that would take place on Monday May 9.

BOARD & COMMITTEE UPDATES:

Mr. Hankin recommended to Mr. Fick that the people need to be educated on the Demolition Delay proposal. He suggested that something might go in the paper or on the Historical Commission Website.

Ms. Fowle said there will be an opportunity to meet the members of the Community Preservation Committee and learn more information about the applications to be presented at Town Meeting. The meeting will be held on Saturday April 30 at the Wheeler Farmstead.

CITIZEN SPEAK TIME:

No one spoke.

Having concluded their business, Mr. Hankin adjourned without objection at 8:39 P.M.

Respectfully submitted,



Kimberly L. Shaw
Planning Board Secretary

