



PLANNING BOARD MINUTES
TOWN OF FOSTER
Benjamin Eddy Building, 6 South Killingly Road
Foster RI 02825
Wednesday, November 15, 2017
7:00 p.m.

A. Call to Order

Mr. Carey called the meeting to order at 7:04 p.m.

B. Roll Call

Board Members Present: Joseph Carey (Chair); Richard Sparks (Vice Chair); Sergio Spaziano; Jeff Sheldon; Mike Carpenter; and Ron Cervasio.

Board Members Excused: Helen Hardy, Secretary

Town Staff: Cheryl Maynard, Planner; Joanna Achille, Solicitor.

Applicants Present: Jennifer Cervenka, attorney for the applicant, John Typadis, Owner and John Gold, Engineer, representing Danielson Pike Solar.

C. Approval of Minutes

Discussion / Action

1) October 4, 2017

Mr. Carpenter moved, Mr. Sparks seconded, to approve the minutes of October 4, 2017. Ms. Maynard stated there was one minor grammatical correction noted via Helen Hardy by email. Ms. Maynard will make the correction.

Motion approved 6 – 0.

D. Correspondence

Discussion / Action

None

E. Board Members' Reports

Discussion / Action

1) Land Trust

Mr. Carpenter showed photographs of improvements made to the Land Trust properties. He informed the Board that the Land Trust is redefining their land management plans in accordance with a new DEM template.

2) Conservation Commission

Nothing at this time.

F. Planner's Report

May-September 2017

Mr. Carey accepted the reports for filing.

G. Public Hearing

Major Land Development

Discussion / Action

1) Master Plan Public Informational Meeting of applicant Danielson Pike Solar, LLC and owner Northwest Community Health Care to construct a 950kW DC (720kW AC) ground-mounted solar installation encompassing approximately 2.58 acres separated into two arrays, and related access drives and gates, vegetated buffer, soil erosion and sedimentation control measures, storm water/drainage best management practices, and electric service extension and structures; located on Danielson Pike by Poles 191-195 and at the intersection with Shippee Schoolhouse Road on 7.088 acres, being Plat 10 Lot 20 in a General Business Mixed Use GBM district, and requiring a recommendation to the Zoning Board of Review for a special use permit.

Mr. Carey read the procedures for the Public Hearing.

Presentation by applicant was led by Ms. Jennifer Cervenka with support from Mr. John Typadis, and Mr. Jason Gold. Ms. Cervenka reviewed the applicant's progress thus far and indicated that the applicant had reviewed the staff report with conditions and supported all the conditions of the report with one clarification regarding the signage. Ms. Cervenka and Ms. Maynard agreed that condition #10 should read "the signage shall be finalized and provided prior to the building permit being assigned" verses in the next development approval stage.

Mr. Typadis was sworn in and reviewed the landscape plan completed by 4Site Landscaping. He reported the landscape plan is in accordance with the zoning ordinance and solar ordinance requirements for solar development and the plan takes into consideration the resident adjacent to the development by increasing

the buffer zone and used deer resistant and hearty plantings to insure the longevity of the screening from adjacent roadways. Mr. Typadis described the overhead risers necessary to cross the wetlands. The poles are made of wood and will be integrated into the landscaped buffer as much as possible. Mr. Typadis also stated the guard rail placed on the plan as part of the Zoning Board approval would be installed at the corner of Shippee Schoolhouse Road. It will be a steel backed timber guard rail to extend 40 feet in both directions along Shippee Schoolhouse Road and Danielson Pike and will blend in the corner landscape while providing adequate protection for the solar panels and fence from cars in the unfortunate case of a car accident.

Ms. Cervenka and Mr. Typadis reviewed the completed application components including the operations and maintenance plan, emergency response plan, and decommissioning plan. Calculations were completed to estimate the cost of decommissioning the solar project, \$ 9,990.00. Mr. Sparks questioned the amount for decommissioning, seemed liked a low number. Mr. Typadis assured the Board the solar panels could be decommissioned for the amount stated.

Mr. Cervasio discussed incorporating one size fits all berm requirements. He would like to see a three foot berm at the site with three foot plantings on top of the berm to provide better screening earlier than waiting for trees to grow.

Mr. Carey asked about the landscape plan to the west and requested that as many old growth trees be saved and additional plantings be incorporated along the Shippee Schoolhouse Road side. Mr. Typadis agreed to supplement plantings on the west side where there were any gaps.

Ms. Cervenka introduced Mr. Gold, site engineer, to discuss the solar project proposal. Mr. Gold was sworn in as a registered professional engineer. Mr. Gold highlighted the changes made to the plan since last before the Board. The Knox box requirements were added to the plan, the western driveway was shifted east as far as they possibly could under recommendations from RIDOT, drainage easement for RIDOT added to the plans, notes regarding signage, potential drainage swales and basin removed from the plan since it was determined that they were not needed after the drainage calculations were completed. The permits received include RIDEM RIPDES and wetlands/ insignificant alternations permit, the PAP (physical alterations permit) from RIDOT is still pending, but they expect to receive it soon and they have been provided a preliminary approval from RIDOT.

Mr. Carpenter asked for locations on the site plan of the interconnect, grounding, breakers, and concrete pads.

Mr. Carey asked for clarity on the note "limit of disturbance," and the likelihood of changes in the limit of disturbance. Mr. Gold stated the site limits are very much set by the site, so the possibility of change is low, and the applicant would return to the Board with any changes.

Ms. Cervenka summarized what the applicant has provided and asked the Planning Board for their preliminary/final approval with the conditions that remain to be met.

Mr. Gold testified that they added a Knox Box, shifted the western driveway east, added a gravel drive and drainage easement per DOT, timber guardrail, and signage, as well as removed the swale and drainage basin. DEM has submitted approval, and a conceptual approval from DOT has been given to the applicant. A completed Physical Alteration Permit (PAP) from DOT is expected soon.

Mr. Carey opened the Public Hearing.

Mr. Carey asked if anyone wanted to speak in favor. None.

Mr. Carey asked if anyone wanted to speak against. None.

Mr. Carey asked if anyone wanted to speak in general of the project. None.

Mr. Carey closed the Public Hearing.

Mr. Carey asked if everyone was okay with the Variance as submitted by the Zoning Board of Review. This was a conditional aspect of the approval by the Zoning Board. Ms. Achille clarified that this was included as a condition by the Zoning Board so the Planning Board could consider the aesthetics of the riser poles and connecting wires in case the design were to change. No planning board members raised concerns regarding the variance.

Mr. Carey marked the exhibits, Full Set of Plans and Attachments as number one, and the Staff Report as number two.

Mr. Sparks read the motion in the affirmative into the record. One edit on number 10 (signage shall be finalized and provided prior to the issuance of the building permit.) was made regarding signage. Mr. Spaziano seconded.

I move to grant Combined Preliminary & Final Plan approval for the proposed solar Installation,

WHEREAS: Danielson Pike Solar, LLC and owner Northwest Community Health Care to construct a 950kW DC (720kW AC) ground-mounted solar installation encompassing approximately 2.58 acres separated into two arrays, and related access drives and gates, vegetated buffer, soil erosion and sedimentation control measures, storm water/drainage best management practices, and electric service extension and structures; located on Danielson Pike by Poles 191-195 and at the intersection with Shippee Schoolhouse Road on 7.088 acres, being Plat 10 Lot 20 in a General Business Mixed Use GBM district.

WHEREAS: The Planning Board received reports and testimony from Town Departments, abutting property owners, and representatives of the applicant regarding the application; and

WHEREAS: The Planning Board heard the land development proposal as a Pre-Application on 5/3/2017 and granted Master Plan approval on 5/17/2017; and

WHEREAS: The development meets historic cemetery setback, off-street loading, and off-street parking requirements, and no land dedication or payment-in-lieu is required because no lots are being created; and

*WHEREAS: The solar installation was granted a special use permit and variance from the Zoning Board of Review on August 9, 2017; further
Having considered the requirements of Rhode Island General Laws of 1956, as amended Section 45-23-30, and based on the Hearing conducted before the Planning Board and on:*

- Testimony presented to the Board, and*
- Recommendations of the staff, and*
- Review and consideration of the Exhibits made part of the record, and*
- Personal knowledge of the area in question, now*

*The approval is subject to the following conditions:
Conditions*

The following conditions are proposed within an approval decision:

Condition 1. Combined Preliminary and Final Plan approval is based on plans entitled “Proposed 950 kW DC Solar Array Preliminary/Final Application Plan” revised 11/06/2017 and marked as Town Exhibit 1 at the November 15, 2017 Hearing, prepared by ESS Group, stamped and signed by Jason M. Gold, Registered Professional Engineer.

Condition 2. The Site Plan sheet shall be recorded as the Final Plan

Condition 3. The project access shall require a driveway permit from the Foster Department of Public Works.

Condition 4. Any access/drainage easement agreements shall be submitted and recorded in Land Evidence prior to the issuance of any building permit.

Condition 5. National Grid Power Purchase Agreement shall be submitted and recorded in Land Evidence prior to the issuance of any building permit.

Condition 6. A surety bond of \$9,990 to cover the removal cost shall be posted prior to issuance of any building permits.

Condition 7. Building permits, including electrical and mechanical, shall be obtained from the Building Official prior to start of construction; proof of liability insurance will be submitted with the permit applications and kept on file in Town.

Condition 8. Appropriate building permits shall be obtained from the Building Official upon decommissioning, and proof of a RIDEM RIPDES permit supplied.

Condition 9. A copy of the completed Notice of Termination sent to the RIPDES Program upon site stabilization and finalization of the work shall be sent to the Town.

Condition 10. Signage shall be finalized and provided prior to the issuance of the building permit. The identification sign shall be no greater than four (4) square feet in area.

Condition 11. The installation shall be subject to periodic inspections by the Foster Building Official.

Condition 12. The installation shall be in compliance with the RI State Building Code and the RI State Electrical Code, and shall be subject to periodic inspections by the Foster Building Official.

Condition 13 RIDOT PAP approvals shall be provided as prior to issuance of any building permits.

The Planning Board further finds that the proposed development, subject to the conditions imposed:

- 1. Is consistent with the Comprehensive Community Plan and has satisfactorily addressed the issues where there are inconsistencies in accordance with the Rhode Island General Laws Section 45-23-30;*
- 2. Is in compliance with the standards and provisions of the Foster Zoning Ordinance in accordance with the Rhode Island General Laws Section 45-24;*
- 3. Will cause no significant negative environmental impacts;*
- 4. Will not create individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable; and*
- 5. Has adequate and permanent physical access to a public street for the development.*
- 6. Provides for safe circulation, adequate surface water runoff, suitable building sites, preservation of features that contribute to the attractiveness of the community, and allows for adequate delivery of municipal services.*
- 7. Minimizes flooding and soil erosion.*

Mr. Cervasio asked the attorney about the bond being in an interest-bearing account. Ms. Achille stated the bond is issued by an insurance company. Ms. Maynard explained the town has been accepting one of two options for the “surety bond” requirement. One is for the town to hold a check for the total amount, the other option has been to secure from an insurance company, a surety bond. Mr. Cervasio amended the motion that the check be deposited in a fiduciary account that draws interest. The motion was seconded by Jeff Sheldon.

Ms. Achille suggested moving on for now until the issue was clarified. Mr. Sheldon withdrew his second; Mr. Cervasio withdrew his motion regarding the “surety bond” account.

Mr. Carpenter inquired about completion expiration dates, permit expiration dates, and finish dates. Mr. Typadis indicated the project must be ready by October 2019.

Mr. Cervasio amended the motion to add 3-foot dirt berms on the two street sides. Mr. Spaziano seconded.

Mr. Sparks asked if it would be difficult to incorporate this requirement at this time considering drainage calculations etc. The applicant indicated that to comply with the construction of a berm they would be required to return to DEM, as well as reset the drainage calculations. Mr. Typadis asked if there was something else they could do to address the buffer and he would be amenable to incorporating it into the plan. Mr. Spaziano withdrew his second to the motion. Mr. Cervasio withdrew his motion, but would like to see a discussion on berms on the next agenda.

Mr. Carey asked if there was any additional discussion on the main motion. There was none.

Mr. Carey had one concern regarding about public safety as part of the motion and conditions of the decision. He recognized that the fire department training is submitted as part of the plan but he indicated it is usually set out as a condition of the approval. Ms. Achille stated that since it had been a condition of the master plan and is now indicated on the plans that is has been covered.

Mr. Carey again asked if there was any further discussion from the Board. There was none. Mr. Carey called a short recess.

There was a short recess from 8:01 p.m. to 8:06 p.m.

Mr. Carey reopened the meeting and asked for any amendments from the Board.

Mr. Cervasio moved to add the following amendment,

Amend Condition #6 to state a Bond in the amount of \$9,990.00 to cover the renewable cost be posted prior to issuance of any Building Permit and shall be held in escrow by the Town in an interest-bearing account. The motion was seconded by Mr. Sheldon.

Mr. Carey called for any further discussion on the amendment. There was none.
Amendment passed 6 – 0.

Mr. Carey asked for any discussion on the main motion. Upon hearing none, Mr. Carey called for a roll call on the main motion to approve preliminary/final approval.

Main Motion roll call:

Rick Sparks, aye; Mike Carpenter, aye; Jeff Sheldon, aye; Sergio Spaziano, aye; Ron Cervasio, aye; Joseph Carey, aye. Motion passed 6 – 0.

H. Zoning

1) Wind Ordinance

Mr. Carey stated that Ms. Maynard provided another draft of the Wind Turbine Ordinance to the Board in their packets. In this most recent draft, in conformance with what the planning board requested at the last meeting, major turbines were made not allowable in all zones and minor turbines clarified. Mr. Carey indicated he would like to let Ms. Maynard know if this is still the direction the Board would like to go in.

Mr. Sparks moved, Mr. Carpenter seconded, to accept the draft of the Wind Turbine Ordinance as presented.

Mr. Carey asked for discussion from the Board. Mr. Cervasio stated the reason he asked that it be brought forward is that there are several people on the board who may not want major wind turbines and he doesn't think they should spend any more time on an ordinance that doesn't have support.

Mr. Cervasio stated he thinks it is hypocritical that those who are concerned about climate change and global warming are reluctant to support wind turbines. He cited two recent articles that he asked be put into the Planning Board packets on renewable energy.

Mr. Sheldon noted that the Right-to-Farm statute can apply to wind turbines and solar farms. He believes people who are not farming are being taxed as having farms. A lot of people think it will destroy the rural value of the community. However, Mr. Sheldon indicated his support for continuing discussions for major turbine development considering its potential for tax benefits for the town.

Mr. Carey doesn't believe the Right to Farm legislation before the RI Legislation currently, does not specifically addresses alternative energy like wind turbines or solar development. Mr. Carey stated if legislation did state this and was passed, the town would need to comply but as of now this is not the case. Ms. Achille indicated there would also be other ways the town can implement regulations to protect against certain non-beneficial development.

Mr. Sparks stated his concerns about development of major wind turbines and indicated he thought most residents would be opposed to having a major wind turbine next door to them. He would be against allowing major wind turbines in town.

Mr. Cervasio suggested polling the Board. Mr. Carpenter felt the major wind turbines are not cost effective in any way. There is no storage capability. It's of no financial benefit to the grid or to the town.

Mr. Carey stated there are no current applicants right now, and those nearby communities that have turbines seem to be having problems. He said he could go either way with continuing the discussion, and that the Board has learned a lot from neighboring communities. Mr. Cervasio stated that technology depends on need. The government is subsidizing in the hope of better technology. Mr. Sheldon states that the need is for tax revenue. Mr. Carey was not convinced there was a great amount of revenue involved, maybe \$15,000/year.

Mr. Spaziano commented on pros and cons of major wind turbines, summarizing that he would rather permit something and regulate it than not permit it.

Mr. Sparks withdrew his motion to approve the draft, Mr. Carpenter withdrew his second.

Mr. Carey polled the Board on the question- at this point do we want to prohibit major wind turbines in the town?

Sergio Spaziano, no; Jeff Sheldon, no; Ron Cervasio, no; Rick Sparks, yes; Mike Carpenter, yes; Joe Carey abstained.

The question was rejected by a vote of 2 – 3, with one abstention.

In accordance with the majority of the Board present, Mr. Carey said the Board will continue to discuss a possible Wind Turbine Ordinance that will allow major wind turbines. Ms. Maynard will submit a new draft Ordinance to the Board.

2) Marijuana Ordinance

Mr. Spaziano moved to table the Ordinance until the next meeting, Mr. Cervasio seconded.
Motion passed 6 – 0.

I. Comprehensive Plan Update

Ms. Laura Sparks is assisting the Planning Department in moving forward with the required maps for the comprehensive plan.

J. Future Agenda Items

- Berms
- Wellhead Protection
- Farmland Access Program
- Marijuana Ordinance

J. Adjournment

Motion to adjourn was approved unanimously.
Meeting adjourned at 8:50 p.m.

Respectfully submitted,

Helen Hardy, Secretary