



PLANNING BOARD MINUTES
TOWN OF FOSTER
Benjamin Eddy Building
6 South Killingly Road, Foster, RI
Wednesday: December 7, 2016
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); Julia Parmentier (Vice-Chair); Helen Hardy (Secretary); and Richard Sparks.

Board Members Excused: Michael Carpenter; Thomas Mercier; and Sergio Spaziano.

Staff Present: Juliana King (Planner).

Public and Applicants Present: Walter “Bob” Steere (15 Theodore Foster Road); Alan Clapp and Julie Beauchemin (Nexamp/Foster Renewables, LLC); Kevin DeMers (DiPrete Engineering); Sarah Malley and Nick Gorham (Gorham & Gorham); Joe Roukous (23A Theodore Foster Road); David & Lauren Rathbun (28 Hartford Pike); Mitchell Cournoyer (54 ½ Maple Rock Road); Marvin & Jamie Nadiger (40 East Killingly Road); Denise DiFranco (Town Council); and Barbara Montijo (Stenographer).

C. Approval of Minutes
November 2, 2016

Discussion/Action

Motion by Ms. Parmentier to approve the minutes of November 2, 2016. Second by Mr. Sparks. Ms. Hardy had a few questions on page 2. Approved 4 – 0 as written.

D. Correspondence

Discussion/Action

There was none.

E. Board Members’ Reports
1) Land Trust

Discussion/Action

No report was available at this time.

2) Conservation Commission

No report was available at this time.

F. Planner’s Report
1) September & October 2016

Discussion

Mr. Sparks requested clarification on whether the solar tax exemption actions listed in the September report had to do with the original solar ordinance or were a separate new requirement, and Ms. King explained that it is just the process formalized from the ordinance.

Mr. Carey placed both months on file.

H. Administrative Subdivision
1) Saint 23, LLC, Plat 14 Lots 83 & 84

Discussion

Mr. Sparks expressed concern on how the merge may affect future land use decisions, and Mr. Carey emphasized that the merge is just administrative and each approved/recorded administrative subdivision’s details are brought to the Planning Board’s attention as an FYI; there is no requirement by law, however, for approval by the Board and so no vote is taken. Ms. King added that it was just two lots merged into one, and future land use doesn’t affect the action.

J. Major Land Development

Discussion / Action

- 1) Master Plan Public Informational Meeting of applicant Foster Renewables, LLC and owners Walter H. & Cynthia M. Steere to construct a 996 kW (0.996 MW) DC ground-mounted solar installation encompassing approximately 5.6 acres, with 12.85 acres to be disturbed, and related lease area, access drives and gates, pedestrian path to RI Historical Cemetery FR137, vegetated buffer, vegetative establishment of disturbed areas, grading, soil erosion and sedimentation control measures, stormwater/drainage best management practices, and electric service extension and structures; located on Theodore Foster Road by Pole 19 on 55.49 acres, being Plat 18 Lot 9 in an Agricultural / Residential AR district, and requiring a recommendation to the Zoning Board of Review for a special use permit.

Mr. Carey read the Hearing Procedure into the record.

Nick Gorham, attorney for the applicant, introduced the applicant's team.

Kevin DeMers, registered professional engineer and senior engineer on the project, was sworn in and briefed the Board that there is active agricultural activity on the site; it is located on Theodore Foster Road off of Hartford Pike. The rear portion and to the southwest is forested, there is an orchard and meadow in the center and to the southwest as well, there is a historic cemetery in the southwest corner, and so the southern portion of the property was chosen for the proposed solar array due to the wetlands near the other property lines and the sharper topography further away.

The facility will be 996kW, with a gravel access and interior access added based on comments received from the Board at the Pre-Application. Tree clearing will be necessary along the driveway and eastern side of the array for a total of about 4 acres, and the treeline shown is updated from the surveyor. The project area is approximately 5.6 acres with a total disturbed area of almost 13 acres. A sand filter for stormwater drainage will handle peak flows off the array and provide water quality, and the driveway includes an infiltration trench with a 10' grass strip in between the drive and trench for pre-treatment and some sediment deposition.

Next steps for the proposal are to the Zoning Board for a Special Use Permit and RIDEM for a RIPDES permit, and as part of the RIPDES permit the state Historical Preservation & Heritage Commission will review the plan because a Natural Heritage Area does overlap the western portion of the land. The applicant will then be back before the Planning Board for Preliminary and Final Plan reviews.

Ms. Hardy noted that the plan addresses the interior access and security discussions from the Pre-Application, and that it may be helpful to provide a further overview of the project for abutters who may be present tonight.

Julie Beauchemin, with Nexamp out of Boston and specializing in commercial-scale solar, was sworn in and stated that the facility will be just under one megawatt. It will engage in a feed-in tariff with National Grid through a Certificate of Eligibility. It is a 20-year project with the option to extend. The solar modules stand about 4 feet off the ground, the inverter will be refrigerator-sized, and the array surrounded by a chain-link fence. The module and racking system specs were passed around the audience.

Ms. Parmentier inquired whether the sand filter is meant to be vegetated, and Mr. DeMers answered that 2-2.5 feet of sand, with the groundwater table underneath, will be covered by loam and seed- a bioretention raingarden type would require more maintenance than the actual array. The modules themselves are screw-mounted and will not be on foundations, and instead there will just be existing earth underneath. Ms. Parmentier sought to confirm that a lot of infiltration between the array rows, and no runoff, is anticipated; Ms. Beauchemin responded that the groundcover will be a rye grass and clover mix, to be mowed a few times a year.

Ms. Hardy asked how often the site will be physically inspected, and Ms. Beauchemin replied that it typically occurs at least twice a year. It would be inspected more often to resolve any issues that might arise. Ms. Hardy was also curious about migrating waterfowl mistaking the array for a waterbody, and Ms. Beauchemin assured the Board that they had never experienced such a phenomenon even with much larger arrays. Mr. Sparks asked about glare, and Ms. Beauchemin explained that tempered glass covers the panels so it's never been an issue before.

Mr. DeMers said that the property line is tree-covered, and the array comes closest to the eastern property line by 220 feet but there is a natural vegetated buffer to neighbors. Mr. Carey queried whether more runoff is expected than the previous array on Theodore Foster, and Mr. DeMers answered that there actually is a more gradual slope here and so the stormwater flow path will be more gradual. Mr. Sparks inquired as to the status of drainage calculations to support the need for a sand filter, and Mr. DeMers noted that there are just rough calculations at this stage- the size will be amended if need be at the detailed engineering stage.

With nothing more from the Board, Mr. Carey opened the Public Hearing at 7:38 p.m..

Mr. Carey asked whether there was anyone in the audience in favor of the application, and there was no one.

Mr. Carey asked whether there was anyone in the audience in opposition to the application, and there was no one.

Mr. Carey asked whether there were any general questions from the audience.

David Rathbun, of 28 Hartford Pike, was sworn in and stated that he is an abutter. Mr. Rathbun was wondering where the water will go once it hits the ground, because there is a watering hole area that drains and overflows to his lower-elevation property. Mr. DeMers opined that it sounds like an existing drainage problem with the forested wetland at the north end of the lot that overlaps onto the Rathbun land, and was confident that the outflow from the sand filter won't contribute to that wetland even taking into consideration the natural topography. The project must demonstrate to DEM that the runoff off-site won't increase due to the disturbed conditions, and with stormwater control measures the runoff should decrease. Mr. Gorham stressed that finalized drainage calculations will be available at the Preliminary review stage. Mr. Carey summed up that it seems the array won't affect the Rathbun property.

Mr. Carey asked again if anyone wished to speak about the application, but there was no one.

Mr. Carey closed the Public Hearing at 7:54 p.m..

The Board agreed that their questions had been satisfactorily answered. Mr. Carey inquired if the applicant had read the Staff Report.

Alan Clapp, with Nexamp, was sworn in and was worried that the access easement agreement stipulated in Condition 2 might be an issue because it will only be conceptual by Final, but would be content with such finalization and recorded prior to building permits. General discussion ensued on decision language and draft conditions to change. Mr. Clapp continued by requesting that Condition 7's surety bond language stipulate that it be posted at the time of final building permit inspection instead, and Ms. King pointed out that the reason it is written so that a bond is posted before a permit is issued is in case construction is abandoned partway through. Mr. Clapp was satisfied with the other proposed Conditions.

Mr. Carey marked the full plan set and attachments as Town Exhibit #1 and the accepted Staff Report as Town Exhibit #2.

Motion by Mr. Sparks to grant Master Plan approval for the proposed solar installation,

WHEREAS: Representatives of the applicant Foster Renewables, LLC and owners Walter H. & Cynthia M. Steere appeared before the Planning Board for property located Theodore Foster Road by Pole 19, being Plat 18 Lot 9 on 55.49 acres in an Agricultural / Residential AR district, to construct a 996 kW (0.996 MW) DC ground-mounted solar installation encompassing approximately 5.6 acres, with 12.85 acres to be disturbed, and related lease area, access drives and gates, pedestrian path to RI Historical Cemetery FR137, vegetated buffer, vegetative establishment of disturbed areas, grading, soil erosion and sedimentation control measures, stormwater/drainage best management practices, and electric service extension and structures; and

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 9/21/2016; 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 requires a special use permit from the Zoning Board of Review; 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:

- Condition 1. Master Plan approval is based on plans entitled “Master Plan Submission, Theodore Foster Road Solar” revised 11/23/2016 and marked as Town Exhibit 1 at the December 7, 2016 Hearing, prepared by DiPrete Engineering, stamped and signed by Kevin DeMers, Registered Professional Engineer.
- Condition 2. Memorandum of lease and National Grid service agreement shall be finalized and provided as part of the next land development review submission.
- Condition 3. The access easement agreement shall be submitted and recorded in Land Evidence prior to the issuance of any building permit.
- Condition 4. Fencing, signage, lighting, emergency access, grading, and drainage details, and UL listing or equivalent of all relevant installation components, shall be finalized and provided as part of the next land development review submission.
- Condition 5. 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 6. RIPDES approval shall be provided as part of the next land development review submission.
- Condition 7. An operation and maintenance plan, a decommission plan, and proof of liability insurance shall be finalized and provided as part of the next land development review submission.
- Condition 8. Cost of removal shall be calculated as part of the next land development review submission, and a surety bond to cover that cost shall be posted prior to issuance of any building permits.
- Condition 9. An FFOS Notice of Land Use Change to RIDEM for reduction in acreage shall be recorded in Foster Land Evidence prior to issuance of any building permits.
- Condition 10. All Preliminary and Final plan checklist requirements shall be fulfilled.
- Condition 11. Preliminary and Final Plan approvals shall be combined.

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.

Second by Ms. Parmentier.

Mr. Carey confirmed with the Board that all were ok with combining Preliminary and Final.

Ms. Hardy polled the Board:

Ms. Parmentier aye, Ms. Hardy aye, Mr. Sparks aye, Mr. Carey aye.

Approved 4 – 0.

Motion by Mr. Sparks to recommend that the Zoning Board of Review grant a Special Use Permit for this project. Second by Ms. Parmentier. Approved 4 – 0.

Mr. Carey called a recess at 8:14 p.m..

Mr. Carey called the meeting back to order at 8:26 p.m..

M. New Business

Discussion / Action

1) 2017 Calendar

There was general discussion on July 5 and August 2, and the difference between listing them on the master calendar and posting a cancelled agenda for each versus striking from the calendar now.

Motion by Ms. Hardy to strike the July 5 and August 2 meetings from the proposed 2017 calendar. Second by Mr. Sparks. Approved 4 – 0.

N. Comprehensive Plan Update

Discussion

1) Review First Draft with Consultant

There was general discussion on the status and the Planner's opinion of the first draft; review and presentation with the consultant is set for 1/4/17.

O. Future Agenda Items

Discussion

- 1) FY 2017-2018 CIP
- 2) Elections
- 3) RIDEM Farmland Access Program
- 4) Full Meeting of Town Boards & Commissions

Ms. King reminded the Board why the Farmland Access Program is listed.

P. Adjournment

Motion to adjourn at 8:41 p.m. was approved unanimously.

Respectfully submitted,

Helen Hardy, Secretary