

Town of Acton Planning Board Meeting

Thursday, JUNE 17, 2021 6:00 pm

MEETING MINUTES

Members Present: Christopher Whitman, Chairman; Gavin Maloney, Vice-Chair; Dennis Long, Patricia Pearson, John Qua, Bernard Broder

Also Present: Ashley Flynn, Jason Sevigny, Jenna Gilbert, Sarah DelGizzo, Art Kelly, Dan Diffin

Call to Order: The Chairman opened the Planning Board Meeting at 6:00 pm.

Approval of Minutes: June 3, 2021: **Dennis Long made a motion to approve the minutes. John Qua seconded the motion; All in favor- motion carried.**

Before Meeting: The Chair introduces Bernard Broder as the new alternate member for the Board.

Public Hearing:

Kelley Orchards, Sam Page Road, Map 234, Lot 044, Proposed 15- Acre Solar

Array: Jenna started the public hearing by showing a slide that shows the map for the location for the solar array. Jenna continued her slide show going over details of the build of the solar panels, access road, utilities, and farm fence. Dennis addressed the Chairman asking if the access road turnaround was going to be large enough for the safety equipment to get in and do maintenance. Jenna answered the question saying that the turnaround is 15' with the road being 12' wide. The maintenance crew will have to park off to the side as there are no designated parking lots. During construction, there will be extra gravel proposed for a larger construction vehicle, but extra gravel will be removed once the construction is complete. Dennis asked does this need to be approved by the Fire Chief? Sarah answered that the Fire Chief will come out for electrical inspections before the solar array being operational. The slide show continued by showing the tree clearing of 10 acres for the lot. This wooded area will now be turned into a meadow area. During the tree clearing, some stumps will remain to help protect the wetlands. It's stated that they have a Tier 1 Wetland Alteration Permit from DEP: Natural Resource Protection Act (NRPA). Jenna moved the slide show on to show that there is a 50' wide buffer and existing tree along Sam Page Road. Plans for evergreens to be planted are to help supplement the buffer area. The Board continued to listen to the slide show and saw some examples of what the solar array mounts will look like. Dennis asked if they are moving solar panels. Jenna stated that she is expecting that they will be stationary. Jenna indicated that they will have a New England

meadow mix under the array and will be mowed a couple of times per year. The mowing will be done to ensure that the grass will not be grown above the bottom-mounted array. Jenna further explained that if the grass grows above the panels, it will affect the sun exposure and the power generated. Dennis brings the Board's attention to the wildlife that will be living there and brings up that Gavin has concerns about the birds in that area. Dennis states that mowing often would be counterproductive to what Gavin has mentioned before, he would like that to be brought up for consideration as one of the conditions. The conversation turned to topsoil. The top will be smoothed out, no loom will be removed. The goal is to make the site stable and close to as existing slopes as possible. Bernard asked whose issues the find of facts and conclusion of law? Bernard continues by saying the reason he is asking is because of some of the concerns that are being raised. Sarah introduces herself as a contract planner with the Town of Acton and works with North Star Planning and is filling in for Ben Smith who is normally at these meetings. Sarah states that who determines the finding of fact and conclusion of law that are in the package passed out is based on her firm's review of the project. The applicant's due diligence is done ahead of time and presented to the Board through their application and their verbal testimony with the Planning Board that they've met the standard of the ordinance. Jenna moves her slide show to the next slide showing Decommissioning after "Array Life". Jenna goes on to explain that the life of the array is 20 to 30 years and once at the end of the life cycle of the array decommissioning starts. Within 6 months of the array shutoff, it takes a period of 6 to 8 weeks of removing all the panels and recycling pieces from the property. The applicant will be providing a letter of credit or cash escrow to the town before the building permit approval. The goal of decommissioning is to stabilize the land and it will exist as a meadow condition after. The Board disuses the escrow account and how the amount of money for the account is figured. Jenna concludes her slide show. The Chair now asks the public if they have questions or concerns. A question was asked by CEO Jason Sevigny when decommissioning what is done with the panels, where do they go? Jenna replied that some parts will go to a regular solid waste landfill, there is nothing hazardous.

Christopher Whitman, Chairman closes the Public Hearing for Kelley Orchards.

OLD Business:

- **Kelley Orchards:** *Sam Page Road, Map 234, Lot 044, Proposed 15- Acre Solar Array:* The Board opened for a discussion: Sarah stated that on page 10 of the

memo from North Star Planning there are two proposed conditions of approval. Sarah read them out to the Board.

1. Before issuance of a building permit, the applicant shall provide the Town with a removal guarantee to be used by the Town in the event the system ceases producing electricity for 12 months in a row and is to be used for the removal of the solar farm structures and underground facilities and to stabilize the site. The amount and form of this guarantee must be acceptable to the Town Administrator but could take the form of a cash escrow or letter of credit.

The Board discusses the wordage of condition #1. The Board would like it to say Code Enforcement Officer instead of Town Administrator.

2. Before issuance of a certificate of occupancy to begin operations, the applicant must provide the Land Use Office with an operations and maintenance plan.

The Board discussed adding to the conditions about mowing under the panels. The Board talks about the potential habitat that could be created for birds in the project zone. Sarah step into the discussion saying the applicant has met the environmental standard of the ordinance. She continues by saying from the Board's perspective the applicant has met the standard of the ordinance that they are here to enforce. Sarah goes on to say that the Board can request additional conditions, but not to approve the project based on the applicant not necessarily meeting them on those additional requests is where you start getting into a gray area. The Board needs to find a middle balance and no one is disagreeing that it would be great if we could increase the wildlife habitats in the meadow, but the applicant also needs to consider the operations of the project. Chris asked if the grass affects the panels. Underneath will it impact the operation of the solar panel if it reaches up to it? There are no moving parts, the desire is to be able to go in there and inspect connections and ensure that there is no rust to the connections or bolts. It's about the long-term effects on the panels underneath. The Board moved on to the Site Plan Review- Findings of Fact. Sarah read out the following:

Conclusion of Law:

6.6.4.7.1 Utilization of Site: The natural capabilities of the site to support development are noted on the plan and appropriate measures for protecting these resources are included:

- The plan reflects the natural capability of the site in that vernal pools are buffered and wetland areas have been identified.
- Natural drainage patterns will be maintained, per the Grading, Drainage, and Soil Erosion Plan, shown as Sheet C-104.
- Post-construction, the applicant will be seeding the project area with a New England meadow seed mix to support pollinator activity.
- The area within the perimeter fence will be mowed twice per year.
- The perimeter fencing will include a 6-inch wildlife gap between the bottom of the fence and the ground, per correspondence dated June 3, 2021.
- Snow storage locations are shown on plan sheets C-102 and C-103. The operations and maintenance plan (see Condition of Approval #2) will call for plowing the access road when snow depth exceeds 6-inches.

Gavin asked when they harvest the 6440 square feet of wetlands if the applicant is willing to use equipment that didn't require driving and rutting the area? Could you harvest without driving in that area? The applicant already has notes on the DEP saying to have limited earth disturbance. The applicant could certainly consider having a stipulation in the contract. Jenna explains that a large wooden mat is laid down for the trucks to drive over.

6.6.4.7.2 Adequacy of Road System:

- Access to the site is from Sam Page Road, a public town road.
- This project will not generate 100-peak hour trips, and will only be accessed for ongoing maintenance such as mowing and inspection once construction is complete.

Access into the Site:

- Vehicular access to the site is from a new gravel access road from Sam Page Road.

Access way Location and Spacing:

- The new 15-foot access road is approximately 220-feet from the Sam Page Road/Route 109 intersection
- Location of the new access road exceeds spacing requirement from existing entrances and intersections

Internal Vehicular Circulation:

- Adequate turning area and parking space are provided at the turnaround located at the end of the gravel access road.

Parking Layout and Design:

- There will be no formal parking at the site
- Light traffic will be anticipated on-site for maintenance needs

Pedestrian Circulation:

- The proposed solar array will not be open to the public and there will be no pedestrian ways or connectors between the property and neighborhood areas adjacent to the site

Stormwater Management:

- There will be no adverse effect on downstream drainage or abutting properties
- Stormwater will not adversely impact downslope areas
- The project is not anticipated to result in a change of peak flows due to site conversion from a forested to meadow condition and will not change existing drainage patterns
- The project is not located in a direct watershed of a lake most at risk from new development or urban impaired stream.
- This project as proposed has wetland impacts of 6,440 square feet, a total of 10,940 square feet of the impervious area including 9,930 square feet associated with the gravel access roadway.
- This project will require a DEP stormwater permit.

The Board stops and discusses the site distance to the town road and the intersection. Sarah steps in saying that the intersection cuts off the max site distance. Dennis suggests that it might need to be tweaked in the ordinance. Sarah suggests tweaking the language to address intersections.

Erosion Control:

- All Erosion and Sedimentation Control Devices will be constructed in conformance with the Maine Erosion and Sediment Control Best Management Practices. See Sheet C-300 and C-301 for Notes and Details.
- Temporary erosion control measures will include a silt fence, which will be installed before all construction activity in areas where soil disturbance may result in erosion, stone check dams, which will be installed in grass-lined swales and ditches during construction, temporary seeding, and temporary mulching.
- Permanent erosion control measures will include riprapped aprons, topsoil, seed, and mulch, and ditch lining with North American Green S75 erosion control mesh

Water Supply:

- The use of the proposed solar array will not require potable water or supply of public water

Sewage Disposal:

- The proposed solar array will not contain buildings or facilities that would require sewage disposal

Utilities:

- All utilities are anticipated to meet the use of the project and will include approximately 300 feet of overhead power lines will be brought to the site by 6 wooden utility poles and approximately 475 feet of underground conduit
- An electrical permit application will be submitted to the town prior to construction

Natural Features:

- Approximately 9.5 acres of trees will be cleared to provide adequate sun exposure to the panels
- The stumps in the cleared wetland area will be left to grow into low height vegetation
- There will be no extensive grading or filling to the site and the amount of vegetation cleared overall will be reduced as much as possible

Groundwater Protection:

- The proposed solar array will not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems

Water Quality Protection:

- The proposed solar array will not generate, locate, discharge, or permit the discharge of oil, gas, chemicals, and other waste items listed in

Hazardous, special, and radioactive materials:

- The project will not handle, store, or use hazardous, special, or radioactive materials

Shoreland relationship:

- The project is not within any Shoreland Zones

Technical and Financial Capacity:

- The applicant has the financial and technical capacity to carry out the project in accordance with the Ordinance and evidence for this is provided in Appendix D of the site plan application

Solid Waste Disposal:

- The proposed solar array will not generate solid waste and will not require solid waste disposal

Historic and Archaeological Resources:

- The Maine Historic Preservation Commission (MHPC) has concluded that there will be no historic archaeological or architectural properties affected by the proposed solar array

Floodplain Management:

- The project is mapped within Zone C, an area of minimal flood hazard

Fire Protection:

- The proposed project does not include any buildings, therefore will not require building fire protection

Conditional Use Review - Findings of Fact:

- A. Impacts on spawning grounds, fish, aquatic life, bird, or other wildlife habitats.
 - The State of Maine has not identified the site as having any essential habitats.
 - Applicant states tree cutting will be done in accordance with the standards outlined in section 5.20 of the Zoning Ordinance, which states that adjacent to other water bodies, tributary streams, and wetlands, a well-distributed stand of trees and other vegetation is defined as maintaining a minimum rating score of 8 per 25-foot square area.
- B. Conservation of shore cover and visual, as well as actual, access to water bodies.
 - The Project is not located adjacent to any significant waterbody and will not impact shore cover or access to water bodies.
- C. The use is consistent with the Comprehensive Plan.
 - This project does not conflict with the planning and objectives of the Comprehensive Plan.
- D. Traffic access to the site meets the standards contained in this Ordinance, and traffic congestion has been addressed in accordance with performance standards in this Ordinance.
 - Upon completion of the construction of this project, this site will not generate regular or periodic traffic. Visits to the solar array will only be on an occasional basis for inspection, maintenance, and operation purposes.
- E. The site design is in conformance with all municipal flood hazard protection regulations.
 - The site is located in an area of minimal flood hazard
- F. Adequate provision for the disposal of all wastewater and solid waste has been made.
 - The solar array facility will not be generating, storing, or discharging any wastewaters, or solid waste materials.
- G. Adequate provision for the transportation, storage, and disposal of any hazardous materials has been made.

- Solar array facility will not be generating, storing, or discharging any hazardous wastes or hazardous materials.
- H. A stormwater drainage system capable of handling a twenty-five (25) year storm, without adverse impacts on adjacent properties, has been designed.
- The project site will continue to handle twenty-five (25) year storms without adverse impacts on adjacent properties as it had prior to the development.
- I. Adequate provisions to control soil erosion and sedimentation have been made.
- The project will include provisions to control soil erosion and sedimentation such as staked hay bales and or silt fencing at the edge of the disturbance between the activity and the wetland resource, prior to any ground disturbance. The hay bales and or silt fence will be maintained until the disturbed area is permanently stabilized. All exposed soils will be mulched prior to any storm event or within seven days following the completion of any soil disturbance.
- J. There is adequate water supply to meet the demands of the proposed use and for fire protection purposes.
- The project will not require the need for water supply.
- K. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odor, and the like.
- The provided landscaping plan shows adequate buffering that will screen views from Route 109 and Sanborn Road.
 - Once construction is complete the solar array will not generate noise, dust, dirt, odor, smoke, fumes, vapors, gases, or create any other similar nuisances.
- L. All performance standards in this Ordinance, applicable to the proposed use will be met.
- Per Section 5.11.2 Buffering of Adjacent Uses; the applicant provides a landscaping buffer and states that the solar array will be constructed to generally follow the slope and terrain of the existing landform. The solar array will not exceed 15 feet in height at any one point, other than the interconnect poles that are used to tie into the distribution lines along the road frontage.
 - Per Section 5.20 Clearing or Removal of Vegetation for Activities other than Timber Harvesting; the applicant will submit a plan for selective cutting outside of the area to be developed under this section of the Ordinance that will maintain a well-distributed stand of trees and vegetation.
 - Per Section 5.21 Water Quality Protection; the site will not store or discharge any untreated or inadequately treated liquid, gaseous, or solid materials that will harm water quality.
 - Per Section 5.25 Stormwater Runoff; the site will minimize stormwater runoff and will not change drainage patterns.
 - Per Section 5.6 Performance standards in regards to Filling, Grading, or Other Earth Moving Activity; Buffering of Adjacent Uses; Landscaping; Clearing or Removal of Vegetation for Activities other than Timber Harvesting; Stormwater; Essential Services; and Soils – applicant provides adequate information showing compliance.
- M. Archeological and historic resources, as designated in the Comprehensive Plan, will be protected.
- The applicant has provided the Maine Historic Preservation Commission (MHPC) project review response letter from November 9, 2020, acknowledging that there are no archaeological sites or other cultural resources on or associated with the project site.

Bernard asks if there have been any instances where a solar panel created a fire. It is stated that it's a very low possibility.

Conditions of Approval:

1. Before the issuance of a building permit, the applicant shall provide the Town with a removal guarantee to be used by the Town in the event the system ceases producing electricity for 12 months in a row and to be used for the removal of the solar farm structures and underground facilities and to stabilize the site. The amount and form of this guarantee must be acceptable to the Code Enforcement Officer, but must -take the form of a cash escrow.
2. Before issuance of a certificate of occupancy to begin operations, the applicant must provide the Land Use Office with an operation and maintenance plan. Mowing will occur before May 15th and after August 15th unless grass or meadow exceeds 3' In which case the applicant would mow as needed.
3. The applicant agrees to use temporary mats during construction to avoid soil impacts within the wetlands.

Dennis Long motioned to approve the Solar Array Project for Kelley Orchards: Acton Solar LLC John Qua second, all in favor-motion carried.

NEW Business:

- **Whitetail Ridge Properties LLC;** Proposed 2 House Subdivision; Map 251 Lot 008 Sub 001: The Chair stated that this is for the Board only and the applicant will appear on July 15th. To be proactive the Chair suggested a site walk to know what the Board is looking at on July 8th at 6 pm. The Board discussed how to get to the site and what address to use. *1351 Milton Mills Road can be used as a landmark for GPS purposes, as the proposed project has no 911 address. Committee to meet at the loggers landing closest to this address.* The Board goes into a discussion on why this subdivision came to the Planning Board and backlots to this site. The Board agreed that they need more information from the applicant and wish to discuss with them. The Board agrees to have a meeting on July 1st, a site walk on the 8th, and a public hearing on July 22nd.
- **Planning Board Training:** The Board agreed to do training all except Gavin.

Dennis Long made a motion to adjourn the meeting of June 17, 2021 John Qua second, all in favor- motion carried.

Adjournment