

TOWN OF NEWPORT, NH

Minutes of the Planning Board

December 8, 2020- 6:00PM

Board of Selectmen's Room

15 Sunapee Street

Regular Meeting and Public Hearing

Remote Access:

Zoom.com – Meeting ID: 825 6382 7428 Password: 040573

Audio access: 1-929-205-6099 (charges may apply)

MEMBERS PRESENT: David Burnham, Chairman; Ken Merrow, Vice Chairman; Herbert Tellor, Jr.; BOS Representative Alternate; Sean Glasscock, Tobin Menard

MEMBERS ABSENT: John Hooper II, BOS Representative; Ray Kibbey

VIDEOGRAPHER: John Lunn, NCTV

STAFF PRESENT: Christina Donovan, Planning and Zoning Administrator; Hunter Rieseberg, Town Manager

COMMUNITY MEMBERS PRESENT: Ed Karr

GUESTS PRESENT: (*in BOS Room*) Charles Van Winkle, Vice President of Operations, Norwich Solar Technologies; (*via Zoom*) Evan Weaver, Project Manager, Norwich Solar Technologies; Will Davis, Project Engineer, Norwich Solar Technologies; Will Miller

CALL TO ORDER: Chairman Burnham called the meeting to order at 6:06 p.m. followed by a roll call of the sitting Board members.

ADGENDA REVIEW: accepted as presented

NEW BUSINESS:

2020-SPFP--003: Sunny Acres, LLC (Owner) Troy McBride (Agent): request a final review of a site plan for the property identified as Map 259 Lot 006. The proposed installation of a solar array. The property is located on South Main Rural (R) Zoning District.

Chairman Burnham opened Case 2020-SPFP-003.

Mr. Charles Van Winkle introduced himself to the Board as the agent for the case at the Planning Board meeting. He introduced Mr. Evan Weaver (Project Manager) and Mr. Will Davis (Project Engineer) also from Norwich Solar Technologies.

Chairman Burnham addressed the applicant and stated that before he could present his case the Board had to make sure that his application was complete. The Board members discussed among themselves whether the application had met all criteria for a complete application.

Chairman Burnham asked Ms. Donovan if they had applied for any waivers. She stated no. Chairman Burnham stated that Newport had permissive district use. A solar array is not listed in the Rural Zoning District. It was not listed under Special Exceptions, either. The solar array being allowed might require a legal opinion.

Mr. Van Winkle addressed Chairman Burnham. He said that he had not found a solar array as a permitted use in any of the Newport Zoning Districts. Mr. Merrow said they were not disputing that; under Town of Newport

Zoning Ordinances it is not listed. The Planning Board wanted to make sure they were not going to violate their (Town) rules. Therefore they needed to consult with counsel.

After a short discussion, Chairman Burnham requested that Ms. Donovan call the Town attorney.

Ms. Donovan left the meeting at 6:10 p.m. to consult with counsel.

Minutes were taken out of order while the Planning Board awaited Ms. Donovan's phone consultation with Town Counsel.

MINUTES: August 18, 2020 and November 10, 2020

August 18, 2020

Due to lack of a quorum of members from the August 18, 2020 Planning Board meeting, the Board agreed to table the minutes until January 12, 2021.

Chairman Burnham addressed the applicant and stated there was a four member quorum present. The applicant had the option of having their case heard with a Board of five voting members or continuing with the four members at the December 8, 2020 meeting. Mr. Charles Van Winkle addressed the Chair and stated he understood that with four members the vote would have to be unanimous for their case to be approved. He agreed to have it heard at the December 8, 2020 meeting.

Mr. Tellor joined the meeting via zoom at 6:14 p.m.

November 10, 2020

On a motion by Mr. Menard, seconded by Mr. Merrow; ***the Board approved the minutes of the November 10, 2020 Planning Board meeting as presented. The motion passed 4-0-0.*** (Tellor did not vote)

Chairman Burnham announced the Board would be exiting for a NPS with Town counsel.

The Planning Board exited the public hearing for a non-public meeting to consult with Town counsel at 6:16 p.m.

The Planning Board exited the non-public meeting and continued the public hearing at 6:22 p.m.

Chairman Burnham reread Case 2020-SPFP-003 into the record.

2020-SPFP--003: Sunny Acres, LLC (Owner) Troy McBride (Agent): request a final review of a site plan for the property identified as Map 259 Lot 006. The proposed installation of a solar array. The property is located on South Main Rural (R) Zoning District.

He asked for a motion to accept the application as complete. On a motion by Mr. Merrow, seconded by Mr. Menard; ***the Board voted to accept the application for 2020-SPFP-003 as complete. The motion passed 4-0-0*** (Tellor did not vote).

Mr. Merrow addressed Ms. Donovan and asked for clarification on the checklist and additional information an applicant might need. He requested she make a list of items for future cases. She agreed. Chairman Burnham stated there were no zoning violations in the district. The project will bring Newport municipality back to net zero (electricity) costs.

2020-SPFP--003: Sunny Acres, LLC (Owner) Troy McBride (Agent): request a final review of a site plan for the property identified as Map 259 Lot 006. The proposed installation of a solar array. The property is located on South Main Rural (R) Zoning District.

Chairman Burnham opened Case 2020-SPFP-003 to the applicant.

Chairman Burnham addressed Mr. Charles Van Winkle and asked him to present his case.

Mr. Van Winkle addressed the Board and stated they were proposing the project as Phase Two of the project begun on Town land located on the west side of the Sugar River across from the Waste Water Treatment Plant (WWTP). Eversource did not have the capacity to accept the amount of electricity that was going to be generated at the original solar array site. Therefore, Norwich Solar had had to downsize the solar array on the site. Norwich Solar has acquired the Turkey Hill Road property and will construct a solar array, increasing the electricity output to bring the Town up to net zero. Mr. Van Winkle then gave the specifics of the array system to the Board. He explained that the greatest impact is during the construction of the array system. Afterward, during the first year the site will be visited once a week for maintenance, monitoring and upkeep. In later years it will require fewer visits.

Using the site plan provided, the Board asked the following questions:

1. Did Norwich Solar have an agreement with the affected abutter concerning the clearing on the lot? Not currently, they were in negotiations. Mr. Evan Weaver explained their conversations with the abutter (since March 2020) and stated nothing would be done without specific approval and written agreement.
2. If the trees were not cut what would the impact be? The array would be shaded and less electrical power produced.
3. Impact on the wetlands? There will be no construction in the wetland area. It needs to be crossed in the northwest corner, but there will be no construction in the wetland area.
4. Will the property be fenced? No. The company has found that a fence is not a deterrent (vandals). They also do not fence because of wildlife in the area. Solar meshing is put over the wires in the back of the arrays to protect them. It is a regulation/code they have to follow.
5. What is the height? Eight or nine feet.
6. There will be easy access? Yes. It is the same as the WWTP array. There hasn't been a problem there.
7. Will it be visible? In the winter it will be seen a bit, in the summer it will be shielded by the foliage.
8. The two entrances shown on the site plan; will one be removed after construction? Yes. Mr. Davis gave additional information on the two entrances.
9. Do the entrances meet the requirements for Newport Fire Department apparatus in case of an emergency? Mr. Davis said they had not looked at that specifically. It is twelve (12) feet wide, the same as a standard residential driveway.

The applicants were told they would need a Town of Newport driveway permit (the Planning Office has the application). Ms. Donovan stated that Public Works had looked at and approved the entrance from their purview; she had not had the Fire Department check it.

Chairman Burnham addressed Ms. Donovan and stated that all Town departments needed to give input on Planning Board cases whether the Board uses their information or not. Ms. Donovan would acquire the Fire Department's input. There was additional discussion between the Board, Ms. Donovan and Mr. Davis on the size of the entrance.

10. Was there a drainage swale along Turkey Hill Drive? Will a culvert be necessary? Mr. Davis said there was not a defined swale at the property. They did not believe a culvert was necessary. Water would be mitigated into the wetlands.
11. Will the Fire Department be trained on the safety procedures for the solar array? Is there an emergency shutdown procedure? The company does do training. Mr. Van Winkle stated they follow the EPA safety guidelines. The grid (array) will automatically shut off. There is also safety signage to explain any procedure necessary for an emergency shutdown.
12. Will there be signage along the road identifying the solar array site? No.
13. What are the dotted lines on the site plan. Mr. Davis explained those indicated the soil types. They are required by DES for permitting.
14. Does Norwich Solar have the DES permit? Yes. Permit # 2020-02153. Approved on October 27, 2020. A copy will be sent to the Planning Office for their file.

Ms. Donovan stated Norwich Solar would be going to the Conservation Commission December 16, 2020 because of the wetlands on the property. The November meeting had been canceled due to the coronavirus.

15. Will the silt fence be permanent? It is a biodegradable barrier. It acts as a sediment fence and does not have to be removed. Mr. Davis explained that DES prefers the biodegradable material fence.
16. Will there be a construction trailer? No. We will work out of our trucks; a porta potty will be brought on site during construction.

Chairman Burnham opened the hearing to the public for questions or comments.

Town Manager Rieseberg addressed the Planning Board members and stated the project was a continuation of the original solar array project at the WWTP. It will provide renewable electrical energy from the Town lands for the municipality's use (not residential). It is Norwich Solar Technologies intent to enter into a Purchase Power Agreement (PPA) with the Town of Newport. Norwich Solar's intent is to transfer the property to the Town. The Board asked if the process would be the same as was proposed at Town meeting to the voters. They were told yes; it would be the same business plan.

Mr. Weaver gave additional information on the business plan and the property in question for the Board members.

Town Manager Rieseberg said that the Selectboard was proud that Newport would be net zero in 2021.

Mr. Ed Karr addressed Chairman Burnham and asked if the Town would be giving up taxable land. Town Manager Rieseberg stated the property is in current use; Town taxes on it were minimal.

Chairman Burnham returned to the Board. Mr. Merrow said that the Conservation Commission will be meeting on December 16, 2020. They are advisory to the Planning Board; any approval made by the Planning Board should be conditional on their decisions. Chairman Burnham added another condition should be a definition on the size (width) of the entrance. There were further concerns of trespassing.

Chairman Burnham opened the hearing to the public.

Town Manager Rieseberg stated that a fence would not be a major deterrent; the Town did not believe one was necessary. Cameras could be mounted for surveillance. The Town could request that Norwich Solar install gates at the entrances to prevent vehicles going onto the property.

Mr. Karr asked who would have liability of the solar arrays. He was told the lessee. There was a general discussion on the solar array.

There being no further questions, Chairman Burnham asked for a motion.

Mr. Merrow made a motion *to approve 2020-SPFP-003 with the following conditions:*

- 1) *Pending the Conservation Commission review; any comments that come out of that review be met.*
- 2) *A review by the Fire Department for fire truck access at the driveway; anything from that review gets added to the plans.*
- 3) *The DES permit is officially filed with the Planning Office.*

It was seconded by Mr. Menard. *The motion passed 4-0-0.* (Tellor did not vote)

Chairman Burnham stated they had their approval.

Mr. Davis and Mr. Weaver left the meeting via zoom at 7:04.

There was a detailed discussion between the Board and Ms. Donovan on the proper procedure to get reviews from all department heads for all Planning Board cases.

CONTINUED BUSINESS: none

ADMINISTRATION:

Training Follow up

There was a short discussion on the attorney's request that Planning Board minutes should be more detailed.

Mylar – Signatures

The Board members signed the Mylar for Case 2020-SDFP-003 (November 10, 2020). There was a discussion on when applicants should have the Mylar prepared and submitted to the Planning Board in order for the members to sign and to be recorded with the Sullivan County Registry of Deeds.

Lot – Line Examples

Ms. Donovan passed out copies of five examples for lot line adjustments and potential rules of procedure that the Planning Board members would use to hear a lot line adjustment case. The examples were given to each Board member and will be reviewed and discussed at the January 12, 2021 Planning Board meeting. Ms. Donovan offered to get the Board the definition of a lot line adjustment.

In discussion, Ms. Donovan explained to the Board members that a lot line adjustment hearing started and ended with the same number of lots. Subdivision cases start with one number and end with more lots than they began with. NH RSAs that the Board members will be using to compare and decide on the procedure to follow in the decision of a lot line adjustment case is: RSA 676:4, I (e) and subdivision case is: RSA 672:14 on pages 475 and 382 respectively.

COMMUNICATIONS:

Board: none

Public (Public Participation shall pertain to topics within the purview of the Planning Board)

Mr. Karr asked the Board:

- ❖ To explain the lot line adjustment procedures they would be reviewing. They complied.
- ❖ About the progress of the traffic study by Avanru Corporation. Chairman Burnham and Ms. Donovan explained that the Avanru Company has to acquire the necessary capital and state approval for their project. The traffic study as proposed in the Planning Board's decision will not be done unless the apartment units are built.
- ❖ About a decision on the minutes being written in more detail.
- ❖ He complimented the new members of the Planning Board on their questions and participation.

On a motion by Mr. Merrow, seconded by Mr. Glasscock; *the Board voted to adjourn at 7:55 p.m. The motion passed 4-0-0* (Tellor did not vote).

Respectfully submitted,

Maura Stetson
Scribe

Approved on: January XX, 2021

The next Planning Board meeting is January 12, 2021 at 6 pm in the Board of Selectman's Room.