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## **NORTHBRIDGE PLANNING BOARD MINUTES**

Tuesday, September 17, 2013

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Brett Simas, Chair called the meeting to order at 7:00 PM. Barbara Gaudette, Janet Dolber and George Murray were in attendance. R. Gary Bechtholdt II, Town Planner was also present. Cindy Key, Associate member was absent.

The following members of the public were in attendance: Henry Lane & Alan Clapp

### **I. CITIZEN FORUM**

None

### **II. FORM A'S**

None

### **III. ZONING BYLAW AMENDMENT(S) –PUBLIC HEARING**

- Table of use regulations (§173-12) –Large Scale Solar Voltaic Facilities
- Zoning provision -Article XX Large Scale Solar Photovoltaic Installation

Mr. Simas read the public hearing notice: In accordance with M.G.L. Ch. 40A Sec. 5, the Northbridge Planning Board will hold a public hearing on Tuesday, September 17, 2013 at 7:05 PM, in the Upper Conference Room of the Northbridge Memorial Town Hall, 7 Main Street, Whitinsville, MA to consider zoning amendment article(s) to amend the Northbridge Zoning Bylaws by (1.) ADDING to the Table of Use Regulations (§173-12) by-right siting of "Large Scale Solar Voltaic Facilities" within the Business-Three, Industrial-One & Industrial-Two Zoning Districts and (2.) ADOPTING a "Large Scale Solar Photovoltaic Installation" provisions; same to be considered at the 2013 Fall Annual Town Meeting scheduled for October 22, 2013.

Mr. Bechtholdt indicated notification and publication requirements for zoning amendment had been satisfied. The Planning Board opened the public hearing.

Henry Lane (on behalf of petitioners) reviewed with the Planning Board proposed zoning amendment articles. Accompanying Mr. Lane was Alan Clap from NexAmp, a solar installation company working with the Ryan family, owners of land located off Lasell Road in Northbridge and Sutton, MA (formerly known as Oakhurst farm). Mr. Lane briefed the Board on the site history and current zoning provisions (solar not currently permitted in Business-3 zone). Mr. Lane explained the Town of Sutton recently adopted similar solar provisions for its portion of the property. Mr. Lane passed out conceptual plan entitled "Groundmount Array" dated September 19, 2011, illustrating proposed layout of a planned solar facility for the subject property.

Ms. Gaudette commented that she recently read a news article where a community adopted a solar bylaw moratorium to afford more time to review and obtain information on these types of facilities. Mr. Bechtholdt indicated that he recalled reading something as well; however which community he was not

sure. Mr. Bechtholdt added some towns may treat solar installations differently than others; in Northbridge large-scale solar facilities have been considered power plants under the town's current zoning bylaw (permitted in the industrial zones); while other towns perhaps are silent on this type of use (in their local zoning) and as such may refer to the Mass General Law regarding unreasonable regulation of solar. Mr. Bechtholdt suggested this in turn may have resulted in the loss of farmland or other areas not intended or deemed appropriate for such use. Mr. Lane agreed; citing Mass General Law statute Chapter 40A Section 3.

Mr. Bechtholdt continued, mentioning a number of communities have adopted by-right siting for large scale solar facilities, noting the state (Mass -Executive Office of Environmental Affairs) has prepared a model bylaw for local consideration; copy of which was provided to the Planning Board (and utilized by the petitioner in drafting the proposed amendment).

Mr. Lane indicated he would be in favor of moratoria in instance where prime farmland may be lost to solar farms (noting Bagma's in Uxbridge as an example). Mr. Lane explained site located off Lasell Road is not valuable farmland, in fact it's an old gravel pit; converting it to a solar use seems appropriate. Mr. Bechtholdt cautioned Mr. Lane and the Planning Board, reminding them in addition to the Lasell Road site other properties in town are zoned Business-3; West End Creamery, Shaws Plaza and land along Providence Road across from the Wastewater Treatment Plant. Mr. Lane indicated that he had taken into consideration other areas, suggesting chances of those sites to be converted to solar were remarkably low. Board members suggested in addition to zoning, parcels would also need to have sufficient south facing exposure (with advantageous slopes, topography, etc); sites zoned B-3 along Providence Road likely may not be favorable for siting solar.

Mr. Bechtholdt referred the Planning Board and Mr. Lane to letter dated September 12, 2013 from the Inspector of Buildings regarding his review of the proposed zoning article; which suggests support of adopting local provisions for siting of solar. Mr. Bechtholdt also pointed out his (Inspector of Buildings) comment regarding no jurisdiction over federal building code, suggesting wording may be revised to reference federal regulations; Mr. Lane agreed and would likely offer a floor amendment at Town Meeting to address.

The Planning Board reviewed proposed subsection 173-136 G 1 Design Standards [Utilization], which included reference to Sutton's zoning districts (in error); Mr. Henry is prepared to present a floor amendment at Town Meeting to delete in its entirety subsection G1. Planning Board then reviewed proposed section 173-135 Definitions –Building Permits. Mr. Bechtholdt asked Mr. Lane if wording for the other petition article (proposed amendment to Table of Use Regulations) should read Large Scale Solar "Photovoltaic" rather than Large Scale Solar "Voltaic" as currently drafted. Mr. Lane suggested "voltaic" was a typo and may be corrected by a floor amendment (to read "photovoltaic").

Planning Board briefly reviewed distinctions between business zones (B1, B2 & B3) and industrial zones (I1 & I2) in town. Board then reviewed purpose/intent of the Route 146 Overlay District. Mr. Simas clarified with the Planning Board and Mr. Lane that proposed zoning amendment would implement site plan review procedures for solar facilities within the Business-3 and Industrial zones where currently no site plan review is required for the industrial zone; all three zones would require site plan review.

Mr. Murray, in reference to conceptual plan asked how close existing homes were to the potential site on Lasell Road; Mr. Lane indicated the extent of backyards is some 30 to 40 feet to the top of the slope. Mr. Clapp noted there appears to be a distance of about 150-feet of woods from the homes to proposed solar, adding the elevation (topography) of the site (situated below homes) would also act as a natural buffer.

Mr. Murray asked if there would be any harmonics or noise from generating electricity; Mr. Clapp noted the converters (approximately 2 for a proposal of this size) would have a low hum, noting no noise at night as converters do not operate after sundown. Mr. Murray asked about the possibility of installing fencing or buffer to reduce any noise concerns from abutters. Mr. Clapp noted a barrier could possibly be installed. Mr. Bechtholdt suggested one of the benefits of adopting the bylaw provisions would be to require site plan review where abutters would be able to voice concerns and the Planning Board, as part of its plan review could impose or condition approval to address concerns.

Ms. Dolber noted she is on the town's Green Committee and felt permitting this type of use is something the state has been promoting and would be an added benefit to Northbridge; promoting natural resources with potential tax revenue.

Mr. Lane and Mr. Clapp briefly reviewed with the Planning Board potential payment in lieu of taxes, noting more common to have a PILOT agreement rather than figure out what individual tax may be for each unit. Mr. Bechtholdt added consideration of a PILOT is something the Board of Selectmen would need to negotiate and act on (likely) prior to the Planning Board receiving a site plan application for review. Mr. Bechtholdt indicated Northbridge recently established (2012 Fall Annual Town Meeting) a building maintenance fund where monies received from PILOT agreements for alternative energy (solar) would be deposited into a revolving account.

Ms. Dolber asked if it was possible to adopt the proposed solar use provision as an overlay rather than the entirety of Business-3 (and industrial zones), where such a use may not be appropriate for all of the Business-3 zones. Mr. Lane indicated it was possible; however felt the point of zoning was to have a uniform regime and not to spot zone certain parcels. Mr. Bechtholdt suggested the other alternative could be to rezone the parcel (land off Lasell Road) from Business-3 to industrial, noting however if rezoned would not prohibit other uses allowed within the industrial zone. Mr. Simas shared same question regarding potential overlay; (having a specific proposal in mind) the idea of swatting a mosquito with a sledgehammer. Mr. Simas asked if the bylaw is adopted as drafted would the town assumes some risk in having another proposal potential sited in town where deemed not appropriate; would the requirement of site plan review address the concern. Mr. Bechtholdt pointed out that site plan review in itself will not prohibit a use; if the use is allowed it is allowed; site plan not meant to deny a use; the table of use regulations determines which use is permitted in which zones, not site plan review. Mr. Bechtholdt suggested if a proposal was to be considered on land deemed by abutters (or others) as not necessarily appropriate perhaps during the pilot discussions with the Board of Selectmen these concerns could be discussed and if the Selectmen agreed then an agreement may not be reached; perhaps an additional layer to siting these types of facilities beyond zoning. Mr. Lane added one always assumes risk when permitting uses in zoning districts; suggesting the Planning Board could impose conditions so that it becomes nonviable.

Mr. Simas questioned if proposed use (solar farm installation off Lasell Road) was a good use of the land verses retail, etc. Mr. Bechtholdt suggested based upon property location (adjacent to Rt 146) a solar facility would not be considered highest or best use, however noted lack of certain municipal infrastructure (no sewer) contributes to what may or may not be built or how a particular site is developed. If parcel had sewer would likely not be talking about a potential solar farm. Mr. Lane noted he was sensitive to that and agreed solar installation is not the highest best use, however the reality is the site has been vacant for decades. Mr. Lane explained solar facility has about 20-year life; if there is a higher and best use that would then likely take over.

Mr. Lane continued, recalling the development pattern of Route 495 where it took decades to develop; starting out as warehouse & distribution and then some 30 to 40-years later to research & office buildings; Route 146 is now in the warehouse stage (relatively low value use). Mr. Simas recognized and suggested the first step of economic development cycle that may take 50 –years. Mr. Lane noted the site was a gravel pit which is likely the lowest of low uses to now potential a solar installation (little higher up the food chain in development of land). Mr. Clapp indicated one of the added benefits to solar installations is they can also be mounted on roofs, often coming with other uses.

The Planning Board reviewed with Mr. Lane potential floor amendments to be considered at the Fall Annual Town Meeting. Mr. Bechtholdt indicated floor amendments would be done at the discretion of the Town Moderator to make sure they are within scope of original intent of articles; as part of the Planning Board's report the Board should include discussions specific to the potential amendments.

Mr. Bechtholdt explained that the petition article filed appears to have been drafted based upon Sutton's existing solar bylaw and asked Mr. Lane if text different from the State's model; Mr. Lane indicated no substantial change.

Having no further question or concerns and after seeking additional input from the public the Planning Board closed the public hearing.

*Upon motion duly made (Murray) and seconded (Dolber) the Planning Board voted (4-0) to recommend zoning amendment to adopt a "Large Scale Solar Photovoltaic Installation" provision -Art. #9.*

As part of its consideration the Planning Board also voted (4-0) to SUPPORT amendment to the petition article to revise Section 173-135 Definitions –Building Permit by referencing "federal regulations" (or similar) not federal building codes as originally drafted. Further the Planning Board voted (4-0) to SUPPORT amendment to the petition article to revise Section 173-136 General Requirements G –Design Standards by *deleting in its entirety* Subsection G1 [Utilization]; as such provision is not applicable to Northbridge as it relates to the zoning amendment under consideration (LGSP would not be permitted in R1, R2 or V).

*Upon motion duly made (Murray) and seconded (Gaudette) the Planning Board voted (4-0) to recommend zoning amendment (Table of Use Regulations –§173-12) to add by-right siting of Large Scale Solar Facilities within the Business-3; Industrial-1 and Industrial-2 Zoning Districts -Art. #10).*

As part of its consideration the Planning Board also voted (4-0) to SUPPORT amendment to the petition article to revise “USE” to read *Large Scale Solar Photovoltaic Facilities (or similar)* rather than Large Scale Solar Voltaic Facilities as originally drafted.

Mr. Bechtholdt confirmed with Mr. Lane his planned attendance at the Finance Committee meeting of September 25<sup>th</sup> (6PM –Town Hall) and Board of Selectmen meeting of September 30, 2013 (7PM –Town Hall).

#### **IV. CAMELOT SUBDIVISION -REVIEW/DECISION**

##### **Issuance of Building Permit(s)**

Mr. Murray recued himself, noting he had worked for the developer (J&F Marinella Dev) as a consultant in the past and as such decided not to participate on this matter. Prior to departing the Planning Board reviewed and discussed Old/New Business items, after which Mr. Murray adjourned from the table and left the meeting.

Mr. Bechtholdt reminded Planning Board members action was tabled September 10, 2013 as the Board did not have the necessary quorum to vote. Mr. Simas reviewed with the Planning Board Joe Marinella’s request to pull building permits for the five (5) additional house lots prior to lot release and posting additional funds to satisfy revised Phase 1. In exchange the developer asked occupancy to be restricted until the performance bond was satisfied and lot release recorded. Mr. Simas noted, in addition to home construction the developer would install the sidewalk and curbing within Phase 1 of the subdivision to help offset the bond amount. Mr. Bechtholdt mentioned that it was his understanding build-out of the five homes would be 4 to 5 months.

Mr. Bechtholdt informed the Planning Board that Mr. Marinella has not provided the additional funds requested for review and inspection, should the Board permit the issuance of building permits at this time the Planning office may withhold sign-off until payment is received. Mr. Bechtholdt noted that a revised phasing plan also needs to be provided. Mr. Bechtholdt reminded the Board the developer still needs to plant screening along 549 Hill Street per the subdivision approval. Mr. Simas explained that it was his understanding Joe Marinella spoke with the homeowner to coordinate plantings, however was not able to set a date due to the homeowner’s work schedule. Ms. Gaudette and Ms. Dolber both questioned why the homeowner was to receive plantings as property is not directly across from the subdivision road as may have been depicted during the subdivision review. Mr. Simas felt the developer made a good faith effort to connect with the homeowner and suggested he would not hold-up building permits. Mr. Bechtholdt suggested if the plantings along Hill Street become problematic he would invite Mr. Marinella and the homeowner to attend a Planning Board meeting to discuss.

Upon motion duly mad (Dobler) and seconded (Gaudette) the Planning Board voted (3-0) to authorize the issuance of building permits for subdivision lots 26, 41, 42, 57, & 58 within Phase 1 of the Camelot subdivision, restricting the issuance of occupancy until such time the developer secures the necessary performance surety with the town and the lot release is recorded with the Registry of Deeds.

In conjunction with Planning Board determination the developer shall install granite-curbing and sidewalk within Phase 1 of the Camelot subdivision. Reference is made to Community Planning & Development letter dated August 15, 2013 to J&F Marinella Development Corp.

## **OLD/NEW BUSINESS**

### Approval of Meeting Minutes –August 13<sup>th</sup> (site visit), August 27<sup>th</sup> & September 10, 2013

Upon motion duly made (Dolber) and seconded (Gaudette) the Planning Board voted (3-0-1 [Murray abstained]) to ACCEPT the minutes of the August 13, 2013 site visit –Camelot. Upon motion duly made (Dolber) and seconded (Murray) the Planning Board voted (3-0-1 [Gaudette abstained]) to ACCEPT the meeting minutes of August 27, 2013. Upon motion duly made (Murray) and seconded (Gaudette) the Planning Board voted (3-0-1 [Dolber abstained]) to ACCEPT the minutes of September 10, 2013.

### Open Space & Recreation Plan Update Committee –Schedule (10/08, 11/12 & 12/10/2013)

Mr. Bechtholdt noting scheduling of upcoming Open Space & Recreation Plan Update Committee (Tuesday, October 08, 2013; November 12, 2013 & December 10, 2013); Mr. Simas indicated meeting notices will be posted with the Town Clerk.

### Planning Board Vacancy Joint Appointment –Monday, September 30, 2013 (BOS meeting)

At its meeting of September 10, 2013 the Planning Board voted (3-0) to recommend the appointment of Mark Key to fill the Planning Board vacancy. Arrangements have been made for the Board of Selectmen to consider same at its meeting of September 30, 2013. Ms. Gaudette & Mr. Murray indicated they would attend the Selectmen meeting. Mr. Bechtholdt will post a meeting notice in the event a quorum of the Planning Board attends September 30, 2013.

### 2013 Fall Annual Town Meeting –October 22, 2013

Point of information –no discussion

### Planning Board Meeting –September 24, 2013

Upon motion duly made (Murray) and seconded (Dolber) the Planning Board voted (4-0) to cancel its meeting scheduled for September 24, 2013. The next meeting of the Planning Board shall be October 08, 2013.

### Farnum Circle (MGL CH 41 SEC 81W) –Discussion

Tabled matter until after the 2013 Fall Annual Town Meeting (October 22, 2013).

### Linwood Mill Lofts –Crosswalk/Linwood Ave

Tabled -awaiting input from Department of Public Works (DPW). Mr. Murray, expressing concern for continued delays suggested the Town Planner contact the Director of Public Works to see why the DPW has not followed up. Mr. Bechtholdt indicated that he would first contact the developer (EA Fish) to see if DPW has provided them with the necessary information, if not the Town Planner will talk with the DPW Director.

Community Preservation Act -CPA

Mr. Simas asked if Board members were comfortable in pursuing the CPA as part of the Open Space Update and the need to solicit support from the various boards and committees before pursuing a town meeting vote; wants to make sure ready before presenting to residents.

Mail –Review

In addition to the mail listed (see attached) the Planning Board noted receipt of the following communications: (draft) agendas for September 24, 2013 and October 8, 2013; Public Hearing Notice for zoning amendment article(s) to amend the Zoning Bylaws by (1) ADDING to the Table of Use Regulations (§173-12) by-right siting of “Large Scale Solar Voltaic Facilities” within Business Three, Industrial One & Industrial Two Zoning Districts and (2) ADOPTING a “Large Scale Solar Photovoltaic Installation” provisions; Letter dated September 12, 2013 to the Town Planner from the Inspector of Buildings regarding the Zoning Amendment – Large Scale Solar Voltaic Facilities; Email dated September 13, 2013 to Planning Board and Henry Lane from Town Planner regarding Solar Bylaw comments from Building Inspector; Memo dated September 11, 2013 to Planning Board from Town Planner concerning Zoning Amendment Article(s) Large Scale Solar Photovoltaic Installations / Facilities; Petition Article Signatures; Draft wording for Article XX Large Scale Solar Photovoltaic Installations; Proposed Table of Use Regulations under Community Facilities; Zoning Map dated July 2012; Document dated March 2012 entitled “Model As-of-Right Zoning Bylaw: Allowing Use of Large-Scale Ground-Mounted Solar Photovoltaic Installations;” Letter dated August 28, 2013 to Henry Lane from Town Planner regarding Zoning Petition Articles 2013 Fall Annual Town Meeting; Memo dated August 29, 2013 to Board of Selectmen and Town Manager from Town Planner concerning 2013 Fall Annual Town Meeting Zoning Amendment- Petition Article(s); Plan of Ground-mounted Array Conceptual Design for property off of Lasell Road/Oakhurst (Northbridge/Sutton); and Planning Board 2013 Meeting Schedule.

Other

Mr. Bechtholdt informed the Planning Board that the Finance Committee is scheduled to meet on Wednesday, September 25, 2013 (6PM –Town Hall) to review warrant articles for the 2013 Fall Annual Town Meeting. The Planning Board shall review recommendations for Article #9 and Article #10 petition articles; Ms. Gaudette offered to attend the Finance Committee meeting on behalf of the Planning Board; Mr. Bechtholdt will provide Ms. Gaudette with copies of the Board’s recommendation prior to the meeting. Mr. Simas and Mr. Murray attended the CMRPC Quarterly Meeting (September 12, 2013) distributed copy of agenda and briefed the Board on the meeting.

Adjournment

Having no additional business the Planning Board adjourned its meeting of Tuesday, September 17, 2013 at or about 8:15 PM.

Respectfully submitted,

Approved by Planning Board –

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R. Gary Bechtholdt II  
Town Planner

Cc: Town Clerk