

Town of Newbury, MA

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Planning Board Meeting Minutes 2013-04-17

Meeting Minutes Approved as written, 6/5/2013

Planning Board

Wednesday, April 17, 2013

Newbury Town Hall

Members Present: Kathleen Pearson, Chair; Linda McCamic; John O'Connell; David Powell; John Weis; George Morse (Associate Member)

Staff Present: Martha Taylor, Town Planner

Kathleen Pearson, Chair, called the meeting to order at 7:00 p.m.

- **Informal Discussion re. Proposed ANR at 6 Fraser Lane:**

Rick True, 6 Fraser Lane, appeared before the Board for an informal meeting to revisit the request he made several years ago to divide his 6.5 acre lot into two and to bring Fraser Lane up to roadway standards. The Board noted potential issues with frontage, adequacy of the way, and abutting wetlands, and said that permission would be needed from William Danner, who owns the Lane. The Board agreed to hold a site walk on Monday, April 22, 2013 at 8:30 a.m. to view existing conditions.

The regular meeting was closed at 7:30 p.m. in order to open the continuation of the public hearing to consider the zoning amendments being proposed for the May 2013 Annual Town Meeting.

- **Public Hearing Continuation: Proposed Zoning Amendments for May 2013 Annual Town Meeting:**

Kathleen Pearson, Planning Board Chair, opened the continuation of the public hearing at 7:30 p.m.

- **Proposed Boundary Changes:** K. Pearson asked if there were any further comments on the proposed boundary changes. There were none from either the Board or the public.
- **Accessory Apartment By-Law:** K. Pearson asked if there were any further comments on the proposed revisions to the Accessory Apartment By-Law. Language granting the ZBA the ability to allow minor dimensional deviations through the Special Permit process was discussed. It was suggested that the ZBA have the discretion to allow 5% deviation from the minimum lot area and maximum gross square footage requirements.

Motion: A motion was made by D. Powell and seconded by J. O'Connell to allow the ZBA, as Special Permit granting authority for detached accessory apartments, to approve a deviation of up to 5% from the minimum lot size requirements and the maximum gross square footage requirements. The motion passed unanimously.

- **Table of Use Regulations:** K. Pearson asked if there were any further comments on the proposed changes to the Table of Use Regulations. There were none from either the Board or the public.
- **Ground-Mounted Solar Photovoltaic Installations By-Law:** K. Pearson asked if there were any further comments on the proposed changes to the Ground-Mounted Solar Photovoltaic Installations By-Law. Following up on comments previously received, the Board decided not to delete the provisions regarding site plan review and to keep the size of arrays in acres rather than square feet for purposes of the by-law.

There was further discussion of the surety and who should put up the bond – the owner of the array or the owner of the land on which the array is being installed. Issues centered on how to ensure that the bond would remain in effect when the array changed hands if the bond was provided by the owner of the array and whether a requirement for the landowner to provide the bond would make the land unsellable.

Jackman R. Colby, 50 Scotland Road, said that National Grid would probably not provide any support. The money is in installing these systems, not in running them, due to government subsidies and tax breaks. He would expect the array to change hands very fast. He noted, in addition, that it is very inappropriate to allow these arrays to be installed on wetlands.

Mary Chick, 34 Newman Road, said that the loss in power comes from the distance the energy has to travel to get to the grid.

The Board ultimately decided that the owner of the land should provide the bond, pending input from Town Counsel on whether this would impact the salability of the land.

Motion: A motion was made by J. Weis and seconded by J. O'Connell to change responsibility for providing the bond from the owner of the array to the owner of the land on which the array will be installed, pending input from Town Counsel on whether this would impact the salability of the land. The motion passed unanimously.

M. Chick asked whether the Town wants to get involved in this, since we have a history of people walking away from property. She also asked whether the Town would want to have a timeframe for getting the surety back.

J. R. Colby suggested that the surety be in place before start of construction, rather than prior to operation. The Board agreed with that change.

Motion: A motion was made by J. O'Connell and seconded by D. Powell to change the timeframe for submission of the bond such that it needs to be in place prior to the start of construction or 30 days prior to operation, whichever comes first. The motion passed unanimously.

J. R. Colby expressed concern about the placement of large-scale ground-mounted solar arrays on wetlands, stating that allowing these on wetlands will make it very difficult for farmers, since no farmer will be able to compete for that land.

K. Pearson noted that she had received a comment from someone who said that these arrays should not be placed on land subject to an Agricultural Preservation Restriction (APR). D. Powell said that such an array could not be placed on land with an APR without giving money back.

D. Powell then noted that there was still one outstanding question: Who should be the Special Permit Granting Authority – the Planning Board or the Selectmen. M. Taylor is to follow up with Town Counsel for a recommendation. G. Morse noted that in Sandwich most Special Permits are granted by the Zoning Board of Appeals, with the remainder granted by the Planning Board. The Board agreed to hold a special meeting to finalize the proposed article in response to feedback from Town Counsel.

Motion: A motion was made by D. Powell and seconded by J. O'Connell to hold a special meeting on Monday, April 22, 2013, at 9:30 a.m. to finalize the proposed Ground-Mounted Solar Photovoltaic Installations by-law. The motion passed unanimously.

M. Chick suggested a compromise under which the Board of Selectmen and the Planning Board would both work on an application.

K. Pearson then asked if there were any further comments from the public.

J. R. Colby asked if the Board was aware of the flooding issues on Scotland Road and whether the Board would be taking a site walk on the property proposed for the large scale solar installation. The Board members replied that they had been given information regarding flooding on Scotland Road, but that they had no role in the review of the application before the Selectmen.

There being no further comments, K. Pearson called for a motion to close the public hearing.

Motion: A motion was made by J. Weis and seconded by D. Powell to close the public hearing on the zoning amendments being proposed for the May 2013 Annual Town Meeting. The motion passed unanimously.

The regular meeting was reopened.

- **May 2013 Annual Town Meeting – Zoning Warrant Articles:**

Motion: A motion was made by D. Powell and seconded by J. O'Connell to recommend the zoning warrant articles as amended to the Board of Selectmen for inclusion on the Warrant for the May 2013 Annual Town Meeting. The motion passed unanimously.

- **Wilshire Road:** M. Taylor presented a request from Hancock Associates for additional fees related to construction inspection.
- **101 Newburyport Turnpike:** Concern was raised about the appearance of the site at 101 Newburyport Turnpike. This is to be discussed with the Building Inspector and the Conservation Agent.

On a motion made by J. Weis and seconded by L. McCamic, the meeting was adjourned at 9:31 p.m.

Respectfully Submitted,

Martha Taylor
Town Planner