



BARNSTABLE
TOWN CLERK

12 AUG 14 P1 50

**Town of Barnstable
Planning Board
Minutes
July 23, 2012**

| | |
|-----------------------------|-------------|
| Matthew Teague – Chairman | Present |
| Paul Curley – Vice Chairman | Present |
| Patrick Princi - Clerk | Present |
| Felicia Penn | Present |
| Raymond Lang | Present |
| David Munsell | Present |
| Stephen Helman | Not Present |

Also present were Art Traczyk, Regulatory/Design Review Planner.

Matt Teague opened the public hearing.

7:00 pm Public Hearing

**Special Permit Application No. 2012-03
John T. Peck Wind Energy Conversion Facilities**

To all persons deemed interested in the Planning Board acting under the General Laws of the Commonwealth of Massachusetts, Chapter 40A, Section 9, and all amendments thereto and the Town of Barnstable Zoning Ordinances you are hereby notified of a Public Hearing to be held to consider a Special Permit Petition No. 2012-03. The petitioner is John T. Peck seeking a special permit pursuant to Section 240-44.1 Land Based Wind Energy Conversion Facilities. The petition seeks to reuse the existing 100-foot mono-pole and reinstall a new wind turbine upon it to generate electrical power for use on the property. The subject property is addressed 3800 Falmouth Road (Route 28), Marstons Mills, MA and commonly known as "Peck's Boats". The property is shown on Assessor's Map 058 as parcel 001 and is zoned SD-1 Service and Distribution Zoning District.

- *Opened April 23, 2012 and continued May 14, 2012 and to July 23, 2012 – continued to seek peer review of the installation. .*

Attorney Caroline Schmittiel in attendance, on behalf of Cotuit Solar. Would like to clarify the confusion when they first came before the board. A revised engineering report has been submitted and she would like to clarify the changes made. The extension will be 11 feet between the monopole and the turbine for blade deflection, the references to the antenna have been removed, thereby making it completely consistent with what Site Plan Review has, and the model is the S343 model of turbine, and a Mass Professional Engineering stamp is now on the plans submitted with this revised report. An emendation to the application has also been submitted to reflect the ownership to reflect that Cotuit Solar and John Peck will be co-applicant's, Cotuit Solar will be the owner of the structure itself and they will be moving forward with the liability insurance for this and John Peck will be the one who is using the

energy generated by the turbine. She does not think that accessory use will be an issue because the use will be on site and by John Peck for his business, she quotes the town code "As long as the WCF is only as an accessory use to a permitted use in a zoning district than it is allowable".

Regarding safety issue and public concern(s) this particular model (has been in use on the Vineyard) has had good reviews as far as working properly and it's silent operation.

Matt Teague asks staff if the modification of the application to add a co-applicant has been done properly and what is the update with the engineering analysis and correspondence received?

Art Traczyk answers yes, application update modification is properly done and that the Planning Board sent eight companies requests for qualifications/cost of services and only got responses back from two. Apex Engineering from Rochester MA and Bergman & Associates from Haverhill MA. The Planning Board found that Bergman & Associates had the best qualifications and they also had some information regarding fatigue analysis/dynamics that should be considered. Including this analysis they gave a price of \$4,200 to the Planning Board. Art requests a vote from the board in order to go forward with requesting the money and once received then we could proceed with execution of the contract with the consultant and move forward.

Conrad Geyser responds and asks for a couple of days to review this proposal.

Matt Teague asks if this should be continued to another hearing date, confirming that the applicant's will correspond with Art with their response?

Ray Lang asks if the co-ownership would be split and each would own half, straight down the middle?

Conrad responds that he assumes the town would be more protected because there are two entities connected to the turbine if there were to be a liability issue. The turbine is not separated geographically/structurally in any way, the entire turbine is co-owned.

Ray Lang states, so both would be liable if something happened with the turbine?

Conrad answers yes, he assumes that would be the case.

Matt Teague asks if there is any other public comment?

Bob Hayden in attendance, he states that Attorney Michael Ford is in Nova Scotia. His main concern is whom would be responsible for any liability. One company has to be responsible for this. He states that one or the other is going to take a hit for damages. What are the town attorney's representing in terms of the liability if there is an accidental situation. Where is the liability going to be pinpointed and what is the amount of the liability going to be?

Ray Lang agrees that his point is liability as well. He directs to Mr. Hayden how would an insurance company address a partnership like this? Would this have to be a separate company?

Bob Hayden responds that he is a lay person and not an attorney, but that these are two separate entities and he thinks that only one entity will ultimately be responsible and this co-ownership will make for

much back and forth for whom is responsible. Also, what is the limit of liability going to be? There needs to be some guidelines established as to the amount/limit of liability.

Ray Lang suggests that a legal opinion may be needed for this.

Matt Teague states that this is an excellent point. He suggests that the Applicant's look into this. Suggests that they may be able to look into other situations such as this, where there needs to be shared/joint liability responsibility. Safety is the issue foremost here.

Patrick Princi brings up public safety, whereby at the last Town Council meeting on this issue, there had been cited issues. Would like to see some strong language set forth in this permit that stipulates instead of routine visits, there should be site visits as deemed necessary by the building inspector, i.e., prior to major storms etc.

Doug Kneale, engineer, on behalf of Cotuit Solar speaks. He wants to know when would the engineer be appointed by the town to begin to do his work? Would this require another meeting in order to proceed?

Art Traczyk states that the money needs to be deposited into a town account before he can sign a contract. He is going to ask the board if they would vote to go along with the processing of this to be done through him.

Matt Teague responds that the board can defer approval through Art as long as Applicant is accepting of this. This would not require another meeting.

Ray Lang moves to continue this Public Hearing to the next meeting, August 13, 2012, at 7 p.m., seconded by Paul Curley, so moved.

Patrick Princi asks if they need a motion to approve the engineer?

Art Traczyk asks for a vote from the board to approve moving forward with the approval of funds and signing of the contract.

Matt Teague entertains a motion to allow staff to move forward with the process of the contract with the consulting engineer subject to approval from the Applicant and receipt/deposit of the necessary funds, seconded by Paul Curley, so voted unanimously.

Discussion: Possible amendment to Barnstable's Land Use Vision Map, modifying designated Economic Center and Village Areas.

- *This item is at the request of Jo Anne Miller Buntich, Director, Growth Management Department.*

Art Traczyk states that this item has been deferred, Joanne Buntich could not be present for this meeting tonight and has asked if we move it to the next meeting.

Ray Lang asks what is the change that was going to be presented if this discussion was to take place tonight?

Art Traczyk replies that there would be 34 or so acres to be added on Scudder Avenue towards the West End in Hyannis, which is highlighted in red, and that the Centerville Business District portray the new outline of the Centerville Business District and the same for Marstons Mills, there would be some constrictions and slight alterations. Three proposed changes to be discussed.

Felicia Penn (reverting back to the Public Hearing issue regarding the wind turbine for Peck's boats) states that in the Planning Board Manual, in the WECF ordinance, nowhere is there any mention about insurance/liability being an issue. Her question is that since it is not included here under what premise would it be enforceable as a liability issue on the applicant? She's assumes it may be covered elsewhere in the Town's ordinance. Suggest maybe staff could do some research on this.

Felicia Penn, secondly, she would like to suggest that the PB/staff designate a parking plan. She mentions the business that was before the board earlier regarding a parking plan and that they have expanded their business. She states that there is a desperate need for a parking plan in the village of Hyannis. She mentions that the planning board is supposed to provide the infrastructure/safety regarding this issue.

Art Traczyk responds that the Planning Board is working on retaining a consultant for a parking plan/charrette for downtown Hyannis.

Felicia Penn replies that the LCP encourages underground parking and that a charrette is probably to little, to late.

Art Traczyk states that the consultant's they are thinking of working with has a lot of experience working with small cities and towns.

Matt Teague reiterates that this really is an issue and thinks it is a solveable issue. The net benefit is to stimulate further growth of Main Street and the waterfront areas. He would like to bring it up at the next Planning Board meeting and would like an update on this.

Felicia Penn mentions that the parking off of Old Colony Rd. was all the way down the street over the past weekend due to the baseball game and a craft fair.

Ray Lang thinks the Planning Board should address underground or elevated parking and then move it on to the Town Council. The appointment of a committee may be necessary for this.

Approval of Minutes: Approval of April 23, 2012, and June 11, 2012, Board Meeting Minutes.

Felicia Penn moved to approve the minutes for April 23, 2012, and June 11, 2012, as presented, seconded by David Munsell, so voted unanimously.

Correspondence: The following correspondence and items were received at the Planning Board's Office.

Notice from Cape Cod Commission of Minor Modification to the Development of Regional Impact Hardship Exemption Decision for the Rose Motel Redevelopment/Lakeside Commons Project, approved July 2, 2012.

Chapter 91 Waterways Dredge Permit Application Proposed for Barnstable Inner Harbor Dredging Project, Barnstable Harbor, prepared by CLEngineering, as submitted to MA Department of Environmental Protection.

Chapter 91 Waterways License Application for Gleyzer, 386 Shootflying Hill Rd., to construct a foundation and to repair a foundation on Lake Wequaquet, Centerville.

Future Meetings: Regularly Scheduled Planning Board Meetings: August 13 & 27, 2012 @ 7:00 p.m.

Matt Teague entertains a motion to adjourn, moved by Paul Curley, seconded by David Munsell, so voted unanimously.

The meeting adjourned at 7:28 p.m.

Respectfully Submitted Karen A. Herrand
by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on August 13, 2012

Further detail may be obtained by viewing the video via Channel 18 on demand at
<http://www.town.barnstable.ma.us>