



Town of Barnstable Planning Board



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Board Members

Stephen Robichaud – Chair Robert Twiss – Vice Chair Tim O’Neill - Clerk Mary Barry Michael Mecenas Raymond Sexton Matthew Teague

Mathew Levesque – Town Council Liaison

Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director

Kaitlyn Maldonado, Assistant Director

James Kupfer, AICP, Senior Planner

Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

Town of Barnstable PLANNING BOARD Minutes June 12, 2023

Stephen Robichaud – Chairman	Present
Robert Twiss, Vice Chairman	Present
Tim O’Neill – Clerk	Present
Mary Barry	Present
Michael Mecenas	Absent
Raymond Sexton	Present
Matthew Teague	Present

Also in attendance were Planning & Development Staff; James Kupfer and Karen Herrand, Principal Assistant.

Call to Order

Introduction of Board Members and Staff Members

Notice of Recording

This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

Public Comment – General Public Comment

Liz Dery, 14 Potter Ave. - Climate change. What is Great Streets all about. Fusion is our future. Concerns with two way traffic.

Stuart Bornstein in attendance. Great Streets Project - Two way traffic concerns – changing from one to two way. There are 1,500 apartments being added which will have more cars and more traffic. Main Street has a lot of delivery and commercial traffic. Spaces for delivery vehicles, will lose parking spaces. If two way will lose this option.

Approval Not Required Plans

Barnstable Clean Water Coalition has submitted a plan entitled “Keating Bogs River Rd. & Whistleberry Rd. Barnstable (Marstons Mills) Massachusetts” ~~dated June 6, 2023~~ – Plan dated June 12, 2023 –

Mary Barry – works in the same industry – for clean water, but doesn’t see need to recuse.

Zenas Crocker, Barnstable Clean Water Coalition in attendance. He explains the proposed ANR applications. Part of land used for environment restoration. This is the third most compromised area. Significantly reduce nutrient load. Farming will continue.

Chair Stephen Robichaud entertains a motion to endorse/approve, moved by Bob Twiss to endorse the plan entitled “Keating Bogs River Rd. & Whistleberry Rd. Barnstable (Marstons Mills), Massachusetts Approval Not Required Plan” prepared for Barnstable Clean Water Coalition, by Horsley Witten Group, Inc., dated June 12, 2023, as an Approval Not Required (ANR) plan, as it does not constitute a subdivision because each of the lots have the minimum required frontage on an existing way having suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use and for the installation of municipal services to serve such use or are not to be buildable lots and are labeled as such; and, all materials and conditions of Chapter 801, Article IV Approval Not Required Plans, have been submitted and are in full compliance, seconded by Mary Barry,

Roll Call Vote:

Matthew Teague - aye

Mary Barry - aye

Ray Sexton - aye

Bob Twiss - aye

Tim O’Neill - aye

Stephen Robichaud - aye

Barnstable Clean Water Coalition has submitted a plan entitled “Hamblin Bogs 110 Bog Road Barnstable (Marstons Mills) Massachusetts” ~~dated April 12, 2023~~ Plan dated June 12, 2023.

Zenas Crocker, Barnstable Clean Water Coalition in attendance. Restoration will comprise 46 acres to be restored. Have first section may be as much as 80 acres.

Chair Stephen Robichaud entertains a motion to endorse/approve, moved by Bob Twiss to endorse the entitled “Hamblin Bogs, 110 Bog Road, Barnstable (Marstons Mills), Massachusetts Approval Not Required Plan” prepared for Barnstable Clean Water Coalition, by Horsley Witten Group, Inc., dated June 12, 2023, as an Approval Not Required (ANR) plan - It does not constitute a subdivision because each of the lots have the minimum required frontage on an existing way having suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use and for the installation of municipal services to serve such use or are not to be buildable lots and are labeled as such; and all materials and conditions of Chapter 801, Article IV Approval Not Required Plans, have been submitted and are in full compliance, seconded by Ray Sexton,

Roll Call Vote:

Matt Teague - aye

Mary Barry - aye

Ray Sexton - aye

Bob Twiss - aye

Tim O’Neill - aye

Stephen Robichaud - aye

Special Permits

TJA Clean Energy has submitted an application for a Special Permit pursuant to the Town of Barnstable Zoning Ordinance §240-44.2 Ground-Mounted Solar Photovoltaic Overlay District for construction of large scale ground mounted solar photovoltaic installation at 810 Wakeby Road, Marstons Mills, MA 02648, *continued from April 24, and May 22, 2023*

Chair Stephen Robichaud commends all for their work/efforts.

Attorney Ford in attendance. He gives an update on the project. Brendon Reali, Environmental Scientist, Atlantic Design Engineers, Inc. in attendance.

Updated storm water report, certified. Final site plan with additional information. Specification for containment, do not have yet, but anticipate receiving from the Town. Reviewed conditions.

Jim Kupfer – updated Staff Report (SR), Exhibit A and review of Conditions. Red and purple edits. Pg. 5 of SR – last revised date. Board requested further language regarding removal of existing use. Green is additional items that Attorney Ford would like added. Town Attorney McLaughlin has reviewed. He goes through the list of draft conditions. Wildlife concerns. No. 12, refines construction hours/activity. No. 16 representation for 3rd party inspector. No. 18 contingency plan. No. 19 soil and remote auto shut off. No. 21. No. 22, No. 23 etc. No. 24 emergency response. No. 25 recycling. Surety bond information from Town Attorneys office. No. 27 date of approval.

Review of No. 22. - Attorney Ford – No. 22 – berms need to be in place, plantings at that stage, plantings could be damaged and have to keep alive, has to be a bond to keep alive. Landscaping done at end of the job. Suggesting berms with landscaping to follow. Construction to be no more than 6 to 8 months. This is the basis of this request.

Attorney Ford, No. 4 to clarify that surrender and abandonment did not include what we need for solar array. Prior uses, didn't want to prohibit use. After solar array uses can continue on the property. No. 7 – doesn't understand the reason behind this. General language, prior to commencement of work on the site. Retain a wildlife expert and survey done and notify Mass Wildlife, this is not a priority habitat site. No evidence of a protected species here/what is the reasoning for this? Doesn't understand the significance of this. No. 24, ok, seems to be consistent.

Jim Kupfer, explains/reviews the difference between the Findings and the Conditions – Findings are built over the course of time. Findings stem from the ordinance itself. These are the actions the Board is meant to view and consider.

Ray Sexton, No. 7, blue section should be struck and replaced with the green section. Wildlife expert should go through, may be an extra cost, however, there is abundant wildlife in/on the site. There are few solar farms that are so close to residents. Should be prudent to check.

Chair Stephen Robichaud, it doesn't say in conditions to stop if wildlife present, a field biologist would know.

Attorney Ford, wildlife survey, if habitat is found? Or wildlife?

Ray Sexton, should clarify on the term.

Jim Kupfer, could say if wildlife or wildlife habitat, if no issue applicant can continue on.

Ray Sexton, No. 24 – how event management would be handled. Asking for standing operational procedure. Should be a plan. Need to have in writing. Site security conducted by remote access - No. 23, may be incorrect term?

Attorney Ford, change the language for No. 23. "be monitored remotely"

Chair Stephen Robichaud, event of loss of on site power, is there is a manual shift on site to shut off.

Ed Switzer, Catalyse, LLC in attendance, yes, there will be a shut off switch as required by utility company, Eversource.

Tim O'Neill, asks about sound ordinance/sound study. Maybe a draft condition regarding a noise ordinance, Mass DEP – long term humming with transformer equipment

Jim Kupfer, shall not exceed Mass DEP noise ordinance, 10 decibels. With addition Condition, No. 30 to state this.

Jim Kupfer clarifies – amendments to 7, 23 and adding no. 30.

Attorney Ford, given the setbacks from the sound makers, not being placed anywhere within setback area.

Chair Stephen Robichaud asks for any public comment. Encourage new public comment.

Christine McDonough, Mockingbird Lane. They can see into the pit, trees are sheltering our view now. Noise, can put the residential property line noise level at all property lines. In opposition to this project.

Cody Jones, 111 Mockingbird Lane. In opposition. Direct threat health and safety and welfare. Barbed wire installed by landowner, landscaping. Plantings take a long time to grow. Pile driving, least destructive methods. Lt. Hill called this low risk, but high hazard. What if something happens do they clean up the mess?

Mary Burkinshaw, 133 Mockingbird Lane. Plantings – trees would keep the dust down a berm won't keep dirt and dust down. If in place prior to construction would keep a little bit of peace. Schedules, what about us, what about kids in the neighborhood and all the noise? Decommissioning issues? Dredging spoils. Concerns with the character in Marstons Mills. In opposition.

Attorney Ford responds to public comment. Abutters are important part of this project and their comments. Town Council voted to rezone this area and provide a path for a solar array in this area. The surrender of the existing use will be a benefit to this property. Dust and noise, there are conditions, No. 14 to have a source of water on site at all times for dust issue. Objection letter, Exhibit B. Reference to the pending litigation, Town Attorney has indicated what is being litigated. Hasn't been a lack of disclosure regarding materials. MSDS sheets were provided. Provision in protocols indicated that authorities – less than 2%, will have containment, as soon as spec information from Town. Have discussed response plan in detail. Proper identification of components on the site plan, have shown where transformers and invertors will be located. The areas where these will go are clearly shown on the plan. Specification from the Town. Sound – this is a good condition to add. Went through sound reports together and will meet standard. Good to keep it a condition of this permit as well as the State. Loss of property values, any time there is a zoning change – may be enhanced over and above what exists on this site today and how. Maintenance comments, operations and have had Fire Dept. and Water Dept. weigh in, comfortable that all has been covered. Megawatts and what affect? This is all done by the size/calculated. Cannot go outside the area that is being permitted for the array, this directly dictates the size. Security fence, berms and landscaping and with financial bonds to keep them up/maintained.

Mary Barry, fencing and removal of current barbed wire?

Attorney Ford – recommends to condition that. This is the property owner. If thinks unsafe then condition that as such.

Chair Stephen Robichaud, existing barbed wire around perimeter shall be removed.

Mary Barry, time of construction – clarifies 8 to 4 and Saturday 9 to 4.

Attorney Ford, people can arrive before 8, but no engines until the 8 or 9 hour as designated.

Jim Kupfer, should not prohibit access though. Barbed wire, Condition No. 4 maybe put here, including removal of existing barbed wire and snow fencing.

Mary Barry, least disruptive method of construction, pile driving or drilling? Can be confirmed today?

Brendon Reali would need to get Geotech out to see what we can do or what is not doable.

Mary Barry, least viable disruptive method of construction. When do Geotech, choose the least disruptive.

Ed Switzer, it is construction, can't bind to it.

Jim Kupfer, No. 6, preconstruction meeting at that time. Attorney Ford, yes, can review the options. Applicant will provide all foundation installation options and the least disruptive option to be used. Operations

Mary Barry, what is the projected time?

Ed Switzer, between 6 to 8 months for completion. Coordination need to be done with utility company. But this is mostly line work, not heavy construction. Clear cutting to array installation.

Christine McDonough, emergency response, what do they do if something arises, what to do? Complaints, where should these be directed to, besides the police, non emergency?

Jim Kupfer, yes, call the police or call the Fire Dept. The site operator works with the Fire Chief and Bldg. Commissioner, manual on site with COMM Fire and all for proper protocols. Building Commissioner should be contacted for enforcement.

Chair Stephen Robichaud entertains a motion to close the public hearing, motion moved by Mary Barry, seconded by Ray Sexton,

Roll Call Vote:

Mary Barry – aye

Ray Sexton - aye

Bob Twiss - aye

Tim O'Neill - aye

Stephen Robichaud - aye

Amendments discussed for Conditions.

Ray Sexton, this has been very difficult. Appreciates efforts done by TJA and feels for the abutters. No court has defined for community health, safety and welfare. Trying to get as right as we can.

Bob Twiss – legislature has limited our ability for solar ordinance/arrays.

Tim O'Neill, long process. Proud to have been part to the process and Town Staff and Applicant going through everything. Have worked hard to regulate and make the best for this area. Conditions and Findings have been well vetted.

Chair Stephen Robichaud nice to see so much public involvement, a lot of comments have been put into these conditions. Commends the Applicant TJA as well.

Ray Sexton reads into record – moves to approve with the following Findings and Conditions Special Permit 2023-002, 810 Wakeby Road, Marstons Mills, MA,

1. The property location is 810 Wakeby Road, Marstons Mills. 810 Wakeby Road, Marstons Mills is shown on Assessor's Map 013, Parcel 004, 005 and 052 in the Residence F (RF), Resource Protection Overlay District, Groundwater Protection Overlay District (GP), Ground Mounted Solar Photovoltaic Overlay District.
2. The Applicant, TJA Clean Energy, and Owner, Wakeby Road Realty, Inc, seek to construct a large ground mounted solar photovoltaic installation located in an underlying residential district at 810 Wakeby Road, Marstons Mills. In accordance with the Town of Barnstable Zoning Ordinance §240-44.2 Ground-Mounted Solar Photovoltaic Overlay District, the proposed use at this location requires a Special Permit from the Planning Board.
3. That the Applicant has requested a Change of Use determination from the Cape Cod Commission, and it has been determined by the Cape Cod Commission that a solar photovoltaic installation is not a change of use and therefore does not require a Development of Regional Impact review.
4. That the Zoning Board of Appeals granted the Applicant a Modification Permit pursuant to §240-8A.3(b) allowing relief from the setback requirements of the Ground Mounted Solar Photovoltaic Overlay District as demonstrated on the plan last revised June 9, 12, 2023.
5. That the Applicant has requested the review of the proposed project by the Federal Aviation Administration and it has been determined that the project as proposed is not a hazard to air navigation.
6. The Applicant has not proposed Batteries or Battery Energy Storage Systems for this Site which is in compliance with the Town of Barnstable Zoning Ordinance §240-44.2 Ground-Mounted Solar Photovoltaic Overlay District which states that, "Batteries and Battery Energy Storage Systems are prohibited".
7. That a Full disclosure of all hazardous products, as defined by the Massachusetts Department of Environmental Protection pursuant to 310 CMR 30.000, proposed to be used at any time at a project site has been provided in writing to the Board. The use of hazardous products shall be further conditioned below.
8. That the project proponent has submitted a plan for the operation and maintenance of the ground-mounted solar photovoltaic installation in accordance with §240-44.2(F)8, which includes specific measures for maintaining safe access to the installation, a stormwater management plan, and general procedures for and frequency of operational maintenance of the installation. Said operation and maintenance plan has been reviewed by applicable departments and the Board has determined that the submission meets §240-44.2(F)8.
9. That the stormwater management proposed has been reviewed by the Town Engineer and shall reduce preexisting runoff from the Site.

10. After an evaluation of all the evidence presented, the proposal fulfills the spirit and intent of the zoning ordinance and would not represent a substantial detriment to the public good or the neighborhood affected.
11. A Site Plan has been reviewed and approved by the Site Plan Review Committee. The conditions of Informal and Formal Site Plan Review shall be incorporated by reference as conditions of this Special Permit.
12. The proposed use as proposed is not substantially more detrimental to the surrounding neighborhood.

Draft Conditions

Amendments to be made to:

Condition No. 4 – include removal of barbed wire.

Condition No. 6 – Applicant will provide Planning & Development with options – least disruptive shall be used.

Condition No. 7 – Applicant will also notify Planning & Development

Condition No. 23 – Maintenance road also access way cleared of snow, trees within 24 hours

Condition No. 30 – new condition regarding noise. The project shall not exceed the Mass DEP sound limit of 10 decibels.

Seconded by Mary Barry,

Roll Call Vote:

Mary Barry – aye

Ray Sexton - aye

Tim O’Neill - aye

Bob Twiss - aye

Stephen Robichaud - aye

Subdivisions

Subdivision No. 827 – Definitive Plan entitled: Plan of Land on Old Stage Road and Parker Lane, Barnstable, MA – Endorsement of Definitive Plan

Jim Kupfer explains this was an approved subdivision, proceeded with Cond No. 2 and Form S and Declaration of Trust, Applicant has provided the necessary documents. Plan is here for endorsement.

Chair Stephen Robichaud entertains a motion , moved by Tim O’Neill to endorse the plan entitled “Definitive Subdivision Plan of Land on Old Stage Road and Parker Lane in Barnstable, MA” prepared for William Eagen, by Gallagher Engineering, last revised February 25, 2023, seconded by Mary Barry,

Roll Call Vote:

Matt Teague - abstain

Mary Barry – aye

Ray Sexton - aye

Bob Twiss - aye

Tim O’Neill - aye

Stephen Robichaud - aye

Mother’s Park Road, Centerville – Endorsement of Roadway Discontinuance Plan, dated April 15, 2023

Jim Kupfer, came before the Board previously. Town Council approved both of these plans. This if for the endorsement of plan

Chair Stephen Robichaud entertains a motion, moved by Mary Barry to endorse the plan entitled “Roadway Discontinuance Plan Mother’s Park Road” prepared for Town of Barnstable, by Town of Barnstable, dated April 15, 2023, seconded by Bob Twiss,

Roll Call Vote:

Matt Teague - abstain
Mary Barry - aye
Ray Sexton - aye
Bob Twiss - aye
Tim O’Neill - aye
Stephen Robichaud - aye

Mother’s Park Road, Centerville – Endorsement of Roadway Taking Plan, dated April 15, 2023

Jim Kupfer gives the history.

Chair Stephen Robichaud entertains a motion, moved by Mary Barry to endorse the plan entitled “Roadway Taking Plan Mother’s Park Road” prepared for Town of Barnstable, by Town of Barnstable, dated April 15, 2023, seconded by Tim O’Neill,

Roll Call Vote:

Matt Teague - abstain
Mary Barry - aye
Ray Sexton - aye
Bob Twiss - aye
Tim O’Neill - aye
Stephen Robichaud - aye

Staff Updates

Local Comprehensive Plan

Downtown Hyannis Great Streets Project

Jim Kupfer gives a brief presentation. Comprehensive look at Downtown Hyannis. To create a place welcome to all and to stimulate Downtown Hyannis economy. Shows existing conditions, presentation, Exhibit C.

Project Goals. Public Meetings. Workshop week. North Street. Bike network. Six points intersection and proposals, this is the most challenging. Parking. Revitalization of underutilized properties.

Mary Barry, any consideration to closing down Main Street on summer weekends?

Jim Kupfer, yes a lot of discussion for this. Open streets we do this on those designated dates. Doing too much may not be good for businesses.

Ray Sexton, timeline?

Jim Kupfer, trying to get grants for infrastructure. If we do well with this we could start next Spring with completion in Fall of next year.

Correspondence

Matters Not Reasonably Anticipated by the Chair

Approval of Minutes

May 22, 2023 draft minutes

Chair Stephen Robichaud entertains a motion to approve the May 22, 2023, draft minutes, moved by Mary Barry, seconded by Tim O'Neill,

Roll Call Vote:

Mary Barry - aye

Bob Twiss - aye

Ray Sexton - aye

Tim O'Neill - aye

Stephen Robichaud - aye

Future Meetings: June 26 and July 10, 2023, @ 7:00 p.m.

Adjournment

Jim Kupfer, potential July 31st remote meeting to discuss Design Guidelines.

Chair Stephen Robichaud entertains a motion to adjourn, moved by Mary Barry, seconded by Ray Sexton,

Roll Call Vote:

Matt Teague – aye

Bob Twiss - aye

Tim O'Neill - aye

Ray Sexton - aye

Mary Barry - aye

Stephen Robichaud - aye

The meeting adjourned at 9:25 p.m.

Respectfully Submitted
Karen Herrand, Principal
Principal Assistant, Planning & Development

Further detail may be obtained by viewing the video via Channel 18 on demand at

<http://www.town.barnstable.ma.us>

List of Exhibit Documents

Exhibit A - Updated Staff Report - Draft Conditions 1 – 27 - Special Permit No. 2023-02 - Ground-Mounted Solar Photovoltaic Overlay District for construction of large scale ground mounted solar photovoltaic installation at 810 Wakeby Road, Marstons Mills, MA

Exhibit B - Objection letter/Anne Salas's Attorney - Exhibit B. - Special Permit No. 2023-02 - Ground-Mounted Solar Photovoltaic Overlay District for construction of large scale ground mounted solar photovoltaic installation at 810 Wakeby Road, Marstons Mills, MA

Exhibit C - Downtown Hyannis Great Streets Project presentation.