

## **Town of Leicester Planning Board**

### **Meeting Minutes**

MEMBERS PRESENT: Jason Grimshaw, Chair; Sharon Nist, Alaa AbuSalah, Debra Friedman, Andrew Kularski

ASSOCIATE MEMBER: Robyn Zwicker

MEMBERS ABSENT: Michelle Buck, Town Planner

IN ATTENDANCE: Barbara Knox, Board Secretary; Harry Brooks, Board of Selectmen Liaison

MEETING DATE: **April 18, 2017**

MEETING TIME: 7:00PM

#### **AGENDA:**

- 7:00PM      Public Hearing, continued:  
                 Special Permit Application: Commercial use at 1205 Main Street (Jin & Ya Company, LLC)
- 7:15PM      ANR Plan:  
                 Auburn Street limited frontage lot
- 7:30PM      Public Hearing, continued:  
                 Zoning Bylaw Amendments: Solar Energy Systems

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Mr. Grimshaw called the meeting to order at 7:00PM

#### **Public Hearing Cont**

Special Permit Application: Commercial use at 1205 Main Street (Jin & Ya Company, LLC)

Ms. Liya Ma, property owner, in attendance. Ms. Ma submitted a parking plan showing marked out spaces.

Mr. Kularski pointed out the plan showing 42 spaces.

Ms. AbuSalah questioned if the spots marked behind the building were existing. Ms. Ma said yes, there were spots back there.

Mr. Grimshaw had concern regarding access for emergency vehicles and felt the fire department might want to review the parking plan. Mr. Kularski said the application states the lot could supply 47 parking spaces, the current use was 37 parking spaces and the plan shows 42 spaces. He asked where the remaining 5 spaces were located. Ms. Ma said along the side.

Mr. Kularski questioned whether or not the spaces were measured to scale.

Ms. Friedman felt the fire department would not allow parking spots right up against the building and they will need to show there was good access around the building. She asked if there was lighting in the back lot. Ms. Ma said there was a light in back.

Ms. Nist asked if a walkway was provided for people to get from the back lot to the front lot. Ms. Ma said there were areas on both sides of the building for people to use.

Mr. Kularski asked if they planned on upgrading the parking lot in back. Ms. Ma said they would need to cut down some trees to make the back lot bigger.

Ms. Friedman questioned the property being in the Water Overlay District and needing a special permit to expand the back lot. Ms. Friedman asked if the lot was paved in back. Ms. Ma said only a small portion was paved.



Ms. Friedman asked how many handicapped spots there were. Ms. Ma said one.

Ms. Friedman said there is a percentage for every certain amount of parking spots, there has to be one handicapped spot made available. If the application was proposing 47 parking spots, providing 1 handicap spot would not meet Federal standards.

Ms. Grimshaw confirmed the Board needing to see a more accurate map showing the location and width of the parking spaces and the location and width of the handicapped spots in accordance to Federal standards. In addition, if any work was required in the back lot, to address the Water Overlay regulations.

He noted the hearing will be continued and suggested the applicant speak with the Town Planner regarding the parking plan and what needs to be done in order to move to the next step before the next meeting.

Mr. Grimshaw asked for any further comments or questions. Mr. Kularski asked that the map show the boundary lines to show the parking lot was within their property line.

Hearing no further comments or questions, Mr. Grimshaw asked for a motion to continue.

MOTION: Ms. Nist moved to continue the special permit public hearing for 1205 Main Street to Tuesday, May 16, 2017 at 7PM

SECONDED: Ms. AbuSalah – Discussion: None – VOTE: All in Favor

### **ANR Plan**

#### Auburn Street Limited Frontage Lot

Plan not received.

### **Public Hearing Cont**

#### Zoning Bylaw amendment: Solar Energy Systems

Mr. Grimshaw reviewed changes discussed at the April 4 meeting and noted all changes were highlighted in the revised draft.

- Page 2, to allow small-scale ground-mounted systems by-right in the Watershed Overlay District.
- Pages 2 & 3, language added noting solar systems installed aren't subject to building coverage limitations.
- Page 4, language added that requires existing vegetation remain for half the required setback width.
- Page 5, to amend so that surety is not mandatory for medium-scale systems, 1,001-39,999 sf.
- Page 6, added new Section 6.12; Zoning Protection for Approved Projects. This section is on grandfathering and is currently under review by the Town's attorney.

This section will state the new Bylaw won't apply to medium or large-scale ground-mounted solar system that received Site Plan approval from the Planning Board before March 21, 2017, except where any such project fails to obtain a building permit within one year from the date of site plan approval and commence construction of solar arrays authorized under the building permit within 6 months of issuance of the building permit.



Mr. Zwicker asked what the process would be if someone had an approved plan who wanted to make an amendment to that plan. Ms. Friedman said they would have to file for an amendment.

Mr. Zwicker asked if the amendment would have to follow the new Bylaw. Ms. Friedman said that would depend upon the change requested.

Mr. Joe Beltran, Mulberry Solar representative said their lawyer suggested minor adjustments would not require following the new Bylaw.

Mr. Grimshaw reviewed an email received from Michelle Buck, Town Planner regarding exemptions to amendments. She did not support exempting amendments because it would exempt future expansion of the 3 grandfathered projects from the new Bylaw.

- Pages 6 & 7, a change in text correcting discrepancy between Section 4.0, General Requirements and Section 3.2.05, Transportation, Communication, Utility. Both sections will indicate medium-scale allowed in RIB with Site Plan Review and not Special Permit.

Ms. Friedman explained this would be whether the Board wanted to require a special permit for a medium-scale in RIB or change the text in RIB to allow with Site Plan Review. She felt the text be changed to allow by Site Plan Review in RIB and that it be consistent on pages 2 & 6 stating Site Plan Review and not Special Permit.

- Page 7, add exemption from height limits for roof mounted solar and add medium-scale and large-scale solar systems to the list of uses requiring special permit in the Watershed Overlay District.

Mr. Grimshaw asked for comment from the Board regarding Zoning Protection for Approved Projects. One of the changes suggested regards exemption from the Bylaw requirements and a second suggestion was to add a permanent footnote addressing a temporary situation.

He agreed with Ms. Buck's comment that exempting amendments from the Bylaw requirements was not a reasonable request.

Ms. Friedman agreed, because it would exempt further expansion on the grandfathered projects from the new Bylaws. A blanket grandfathering to the three projects doesn't seem reasonable.

Mr. Kularski agreed, because the project approved is what will be grandfathered and any deviation from that would require to follow the new Bylaw.

Mr. Beltran agreed major changes should be subject to the Bylaw. What they were trying to capture were minor adjustments that happen along the course of the project. Ms. Nist noted what an applicant considered minor might not be considered minor by an abutter. Mr. Beltran said Ms. Buck did mention in her email that minor adjustments could be handled administratively, but if it was the consensus of the Board not to handle it that way, they were okay with that.

Ms. Friedman explained that would depend on what an applicant was looking to change. For the most part, the Board has taken under advisement minor changes, such as change in location of the gate by 10-feet, but anything beyond that might not be considered minor.

Mr. Dave Zouwala asked what happens if the developers change, but the project stays the same. Ms. Friedman said it wouldn't make a difference and would only be a change in paperwork.

Mr. Gregg Buteau said the minimum frontage requirement is at 50 feet and at the last meeting, he asked the Board to consider changing it to 40 feet. In the section regarding Limited Frontage



Lot, states, “The provisions of this Section shall not apply to any lot shown on a definitive subdivision plan under Mass General Law.” His reason for the 40 foot request was because some roads have land at the end of the road. The 40 feet would allow that land to be developed and have legal frontage. When looking at what is in the proposed solar regulations, it just says 50 feet and didn’t pull in all the language that is found in the Limited Frontage Lot definition. When the Town approves a subdivision plan and the street ends, the 40 foot width remains and there is land beyond that; that was his point.

Mr. Grimshaw asked if his point was because he felt the Bylaws define the frontage in more detail than what was stated in the proposed Bylaw Amendment. Mr. Buteau agreed and then asked to confirm the requirement of a special permit or site plan review in most areas. Mr. Grimshaw agreed.

Mr. Kularski clarified dimensional requirements in each zone have to be met, with the exception of SA, where the frontage is allowed to go lower from the required frontage, for a solar field.

Ms. Friedman explained Limited Frontage Lots weren’t the same as a Solar project and didn’t understand why Limited Frontage Lots were being discussed in connection with the Solar Bylaw. Mr. Buteau said the Limited Frontage Bylaw requirement was the response he got at the last meeting and at that time, he didn’t have a copy of the Bylaw. When he read the Limited Frontage Bylaw, there was that statement regarding approved subdivision plans. For example, there is a large agricultural parcel where there is a 40 foot wide road that leads to it and under the proposed bylaw, where it allows down to 50 feet, that agricultural parcel can’t be developed versus the Limited Frontage Bylaw, where there is an approved subdivision plan that shows that.

Ms. Nist pointed out his argument was on road width and the amendment is regarding lot frontage.

Mr. Buteau said the bylaw says 50 feet and there’s a lot that has 40 feet that opens up after that. If there was a requirement consistency, this bylaw would not restrict property from being developed, versus the Limited Frontage requirement of 50 feet.

Mr. Grimshaw explained the Limited Frontage Lot Definition broadly defines what a limited frontage lot would be, but a limited frontage lot could have a different scenario depending on the use proposed. Mr. Grimshaw explained Mr. Buteau argument as being, if that pork chop lot would satisfy the requirements of a limited frontage building lot, then why wouldn’t it satisfy the requirements for solar development.

Mr. Buteau agreed, and felt the amendment was making solar development more restrictive than currently allowed. The limited frontage allows development of a lot if it’s been approved under a subdivision plan.

Mr. Grimshaw pointed out the limited frontage and the amendment both shows 50 feet. Mr. Buteau reread the sentence from the limited frontage bylaw regarding approved subdivisions. Ms. Friedman explained that meant someone can’t come in with a subdivision plan and purposely make limited frontage lots. For example, it is not allowed for someone to come in with 200 acres and put in multiple 50 foot frontage lots with very long driveways.

Mr. Buteau said his interpretation was with an existing subdivision plan. Ms. Friedman said a definitive subdivision plan means something the Board would have to sign off on and was planned that way.



Mr. Buteau argument was a definitive plan approved years ago that had a 40 foot road going through and ending at a large lot behind it.

Ms. Friedman explained the reason the Board was looking to have 50 feet in both areas was to have consistency, for not only limited frontage lots, but also for solar projects. By having both requiring 50 foot, it could be used as a single building lot or for solar development.

Mr. Buteau said his argument was on old approved subdivisions, not anything new, and 50 foot makes it more restrictive.

Ms. Friedman asked Mr. Buteau his suggestions. Mr. Buteau suggested using the same language as in the limited frontage bylaw, that the provisions shall not apply to a lot shown on an approved definitive subdivision plan and add, that shows 40 foot frontage. Mr. Grimshaw understood his point, but at what point will that number stop and should it go down to the property owner who only has 25-feet.

Ms. Friedman explained the differences between a road width as built and frontage requirements as being two different things. She said there can be a 40 foot road width, but 5 extra feet on each side was needed and the Board usually looks at a minimum of 50 feet for new road construction.

Mr. Grimshaw continued discussion related to adding footnotes to the use table.

He said a footnote was proposed for Sections 3.2.05.7 & 3.2.07.8 that would say, “special permit requirements shall not apply to ground mounted solar energy systems for which site plan approval was granted prior to March 21, 2017.” Ms. Buck noted in her email that it was unnecessary to add a permanent footnote to address a temporary situation that only applies to 3 applicants. All agreed a permanent footnote was not necessary.

Mr. Grimshaw did a final review on all the changes to affirm the Board’s opinion and to ensure everyone understood all changes proposed.

Mr. Logan Benoit, 190 Chapel Street, asked if the Town attorney’s review would be made public regarding the rule applying to previous permits after approved and not grandfathering any permits that the Town found conducive to be done under good will. Mr. Grimshaw said that was currently under review by the Attorney Cove and he wasn’t sure if that would be made public.

Ms. Friedman explained unless the Town’s attorney has any further suggestions, what is stated in the draft is what will go on Town Hall Floor for vote. Although Attorney Cove could recommend some changes, the overall intent will remain the same.

Mr. Grimshaw reviewed page 2, allow small-scale ground-mounted by-right in the Watershed Overlay District. All agreed.

Page 2 & 3, adding language noting that solar energy systems installed aren’t subject to building coverage limits. All agreed.

Page 4, adding language that requires that existing vegetation remain for half the required setback width. All agreed

Page 5, amended so that surety is not mandatory for medium-scale (1,001-39,999 s.f.) ground-mounted solar. All agreed/



Page 6, added new Section 6.12 (Zoning Protection for Approved Projects). This is the section under review by Attorney Cove. All agreed, contingent upon Attorney Cove's recommendations.

Pages 6 & 7, changed text for RIB District that will indicate medium-scale is allowed with Site Plan Review (not special permit). All agreed

Page 7, added exemption from height limits for roof-mounted solar in Section 4.2.03. All agreed.

Page 7, added medium-scale and large-scale ground mounted solar energy systems to the list of uses requiring a special permit in the Watershed Overlay District. All agreed.

Hearing no further discussion, Mr. Grimshaw asked for a motion.

MOTION: Ms. Friedman moved to recommend approval of Article 24 for the May 2, 2017 Annual Town Meeting, subject to text changes recommended by Attorney Cove.

SECONDED: Ms. Nist – Discussion: Mr. Beltran asked what additional work would need to be done from getting a site plan approval versus a special permit.

Ms. Friedman explained it wasn't saying a special permit was required, it is saying site plan review was required.

Mr. Beltran asked the difference in the application process.

Ms. Friedman explained a special permit requires a public hearing, notification to abutters, legal ad notification in the paper, and a 4/5 vote of the Board for approval. A site plan review is heard at a public meeting of the Board and a majority vote of the Board for approval.

VOTE: All in Favor

With no further discussion, Mr. Grimshaw asked for a motion to adjourn

MOTION: Ms. Nist moved to adjourn meeting

SECONDED: Ms. AbuSalah – Discussion: None – VOTE: All in Favor

Meeting adjourned at 8:25PM

Respectfully submitted:

*Barbara Knox*

Barbara Knox

**Documents included in the mailing packet:**

- Agenda
- Memo from Michelle Buck, Town Planner to the Planning Board regarding April 18, 2017 Planning Board Meeting
- Draft copy of the Solar Energy System Zoning Amendment Summary dated 4/12/2017

**Documents submitted at meeting:**

- Copy of an email from Michelle Buck, Town Planner to the Planning Board regarding Revised Draft Bylaw dated 4/13/2017