

# MADBURY PLANNING BOARD

13 Town Hall Road Madbury, NH 03823

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## Approved

### OFFICIAL BUSINESS

**Minutes of:** May 4th, 2022

**Meeting Convened:** 7:00 pm

#### **Members in Attendance:**

Marcia Goodnow - Chair

Mark Avery-Ex Officio

Doug Hoff - Vice Chair

Tom Burbank

Michael Card

Bevie Ketel

Casey Jordan

#### **Support Staff:**

Elizabeth Durfee - Contract Planner

Eric Fiegenbaum - Administrator

#### **1. Seating of Alternatives**

None Seated.

#### **2. Approval of Minutes**

The minutes from 04/20/2022 were reviewed. **Motion** made by member Hoff to accept the minutes as amended. **Seconded** by member Burbank. All Aye. **Motion approved.**

#### **3. Corespondance**

None

#### **4. Site Plan Public Hearing - Town Owned Solar Array, 334 Knox Marsh Rd.**

Chair Goodnow read the rules for the public hearing and the public hearing announcement. Travis Genatossio from Revision Energy presented an overview of the project. The moderately sized ground solar array will be 60 feet from the road. Revision Energy will be using a tiered approach from the wetlands, and they will be trenching to the municipal building to tie into the grid system. Mr. Genatossio expects this project to take about 3 weeks. They will be using earth screws to mount the panels and keep the impact minimal.

Chair Goodnow asked Mr. Genatossio what will the drivers be able to see. Mr. Genatossio said that drivers will be able to see the back sides of the panels, but the treeline will block most of the visibility. He noted the back of the panels are lean looking and the meshing helps clean up and improve the look of the panels. There will be no glare seen from the panels since they will face the field. Member Avery asked if there will be glare for the drivers or residents from the south east. Mr. Genatossio noted that many studies have been done on this and there is very little glare from these panels. Chair Goodnow asked how the site will be re-established after construction. Mr. Genatossio said that they will use a re-seeding mix to bring back the grass in the field. Chair Goodnow asked if there will be screening for the neighbors? Mr. Genatossio said that there are no nearby residents. Chair Godonow asked how the array will be serviced. Mr. Genatossio said that everything could be accessed through the municipal complex parking. Chair Goodnow asked if any runoff is expected. Mr. Genatossio said that this is not a concern. Member Avery asked if the cables will be buried. Mr. Genatossio said that they will be buried. Chair Goodnow asked how emergency access would be achieved. Mr. Genatossio noted that there will be an emergency disconnect at the municipal complex. Chair Goodnow asked if there will be any toxic materials at the site. Mr. Genatossio said there would not be anything toxic. Member Jordan asked if there will be any batteries on the site. Mr. Genatossio noted that there will be no batteries on site.

Chair Goodnow asked for public comment. John Bickford asked how much electricity is expected. Mr. Genatossio expects 120,000 KWH per year. Garrett Ahlstrom asked about the location of the inverters and the safety of them. Mr. Genatossio said that all 3 inverters would be located in the same spot. and they could be secured and locked if the town wanted to. He also noted the wires would be protected and not able to be accessed. Administrator Feigenbaum suggested that the trees that are dead or dying in the area could be removed before the work is started, so that there is less chance of a tree falling on the array. He also asked if the conduit line would be marked. Mr. Genatossio said that they typically don't mark it, but they can. At 7:15 Chair Goodnow closed the public comment portion of the hearing.

Member Avery asked what way are they planning on restoring the site, and what wetlands are impacted. Mr. Genatossio explained the wetlands are not prime, and they can add sand or fill if they need to, but re-seeding should be all that's needed. Chair Goodnow read into record a comment from resident Steven Howlinsky. His primary concern was asking who is responsible for the solar removal as the cost can be high. Mr. Genatossio explained the array has a 20 year life expectancy before the panels start to degrade. At that point if the town wanted new panels they would remove the existing panels. Member Jordan asked what the recycle/replacement cost would be. Mr. Genatossio said that it is fairly inexpensive. Member Burbank asked if the town doesn't sign a new contract, the disposal cost is our

burden. Mr. Genatossio confirmed this. Chair Goodnow asked if there is a maintenance contract. Mr. Genatossio said that the first 5 years Revision will come out, and they offer maintenance contracts beyond that if the town wanted to purchase one. Member Avery asked if we would want to add trees to hide the visibility of the array. Member Jordan noted that due to the elevation, a tree planting wouldn't really help. Also the municipal complex is visible.

Chair Goodnow recommend the town consider removing the dead or dying trees, consider possible landscaping, revegetation of the disturbed area, fencing around inverter boxes, and investigate the maintenance plan. **Motion** made by Member Avery to have Chair Goodnow send the recommendations to the town Selectboard. **Seconded** by member Jordan. All Aye. **Motion approved.**

#### **4. Public Hearing - LandCare Associates Inc. 282 and 284 Know Marsh Rd.**

Chair Goodnow started the continuation of this public hearing at 7:28pm. Chris Berry announced he will be reviewing the revised plans, and responding to some of Planner Durfee's memo, although he has not been able to review all of it.

Mr. Berry began reviewing impact area changes of the site plan, and the location of bins. The location of the bins has changed, and now they will no longer need a variance. He has relocated the stormwater management gravel wetland, so that they can now maintain a 50 foot buffer. He has removed bins that were located in the flood zone. He has moved interior to the property to get away from impact on wetlands.

Mr. Berry reviewed the color coded impact overlay plans. First he reviewed the current layout. Then the overlay districts, and he broke down each zone by showing the colors on the new site plan. Member Jordan asked about Mr. Berry's statement through ownership continuing use. Was Landcare using this area before? Mr. Berry noted the west side of this site was the previous owner's usage. Member Hoff asked how can you tell at what time the disturbance occurred. Mr. Berry used google earth to reference changes on the site. Mr. Berry then reviewed the shoreland zone, and demonstrated where new bins, storage of materials, and parking would be located. Planner Durfee noted that the site plan should include all disturbance that has taken place. If an activity is on the lot that is not on the plan, it is not complete. Everything that the applicant wants approved should be on the site plan. Mr. Berry stated that all the gravel was on the site previously. Mr. Berry asked how to deal with permitting, and if they need to permit from a prior owner. Planner Durfee clarified that all of the already disturbed areas should be shown. Attorney Baum noted that the parking and drive lane has been approved previously. Member Jordan asked if there was a consultation prior to the purchase. Member Avery asked why wouldn't we want this to be in compliance. Mr. Berry said that if the board would like this shown, he could do that.

Member Jordan noted that the net new area is important but the total area is important as well. Knowing what was included as non-compliance helps us know what is being approved. Member Ketel asked for a copy of the deed, and the Google Earth pictures. Attorney Baum felt the site was in poor shape. Member Hoff noted that the property was a wetland. Attorney Baum said he understands that this is a difficult site, but he feels relief is the best way forward.

At this time Mr. Berry continued his presentation. He demonstrated the poorly drained soils and vegetation buffer. Then he went through the itemized CUP vs Variance worksheet. Mr. Berry showed the stormwater BMP, and asked if this will be a CUP or Variance. Member Jordan asked if there are access ways included, and what is being stored in the storage containers. Mr. Berry said that non-construction maintenance machinery would be in the containers. He said that he is looking for a CUP for the access way. Mr. Berry showed the wet area conservation district specifically subsurface gravel wetland, the shoreline protection overlay district, and the aquifer and wellhead protection overlay district. Member Jordan asked where the less than 550 gallons of fuel would be located. Mr. Berry and Member Jordan located the location on the site plan.

Mr. Berry explained the stormwater gravel usage. He noted that the water is of highest quality when it leaves the project site. He explained that the gravel and stone materials create an aerobic state that is designed to remove the phosphorus and nitrates, and is designed for the 100 year flood event. He asked if the 3d party review of Dr. Ballestero would review the stormwater analysis.

Member Avery asked for clarity of the rental of spaces to 3d parties. This should be well stated and understood. Attorney Baum noted that the site does about 30% retail and 70% wholesale. He stated the applicant is looking to expand the allowance of retail. Chair Goodnow cleared the issue, that retail was not allowed in the first place. She noted that a traffic study should be done as well. Member Avery asked about the hours of business. Mr. Berry said that retail is not limited to 7am-7pm, it's not typical but they could be working until 8pm. Chair Goodnow asked for clarity on wholesale vs. end retail user. Mr. Berry said that wholesale implies a bulk material to a contractor, whereas end user is typically a homeowner picking up material. Member Hoff noted that the retail hours should be detailed with the additional operators on the site plan. Specifics should be given on who, what, and when other businesses and their types are also using this space. Mr. Barry noted that they are leasing professional office space. Member Avery asked if they are storing material, and possibly exceed the 550 gallons of allowed fuel storage. Mr. Berry said that they are still less than 550 gallons. Planner Durfee noted that any other business needs to be clearly shown on the site plan. Member Jordan added that retail hours can be limited, and the board would want to know what hours these additional businesses are operating. Chair

Goodnow asked if these are also 7 day a week businesses. Member Burbank added that part of the plan include the number of employees and the daily or weekly customers. Attorney Baum noted that there are 29 employees, and they can make a supplemental memorandum for this information.

Member Avery noted if two owners are on one site plan, the two properties must be used in the same way. If either party dissolves, the plan could become null/void. Member Jordan added that all variances and CUPs would be tied together. Attorney Baum noted that they are presenting as a single plan. Member Jordan noted that because these are two separate lots and owners, to disassemble this if the partnership dissolves. Member Hoff reminded the board that we have water board and conservation commission members that were asked for their input on this site plan. Now that the plan has changed, they should be updated, and we should received their ideas and comments. Administrator Fiegenbaum noted that the conservation board has not had the opportunity to review the site plan changes. Attorney Baum noted that the review from the conservation and water board do not seem to be juridical. Planner Durfee suggested going through the items as a starting point, but the board wanted input on stormwater impact.

Chair Goodnow noted that both the planning board and applicant are in favor of Tom Ballestero conducting a third party review. Member Ketel asked Attorney Baum for the past cases of water impoundment. Attorney Baum said he did not bring them, but he can. Member Ketel said she would like to see these cases he referred to at the last meeting. Mr. Berry noted that the plans have significantly changed to allow more space for the impoundment and Tom Ballestero's review would not change the site plan. Planner Durfee reminded Mr. Berry that the Board wanted expert opinion to help determine if the stormwater impoundment is a permitted use in the wetland. This will help the board find if the impoundment aligns with the purpose of those sections of the ordinance.

Member Avery noticed that the applicant is seeking variances now for many items and wanted to know what CUPs the applicant is now looking for. He referenced the definitions in zoning Article 3, citing that this seems to be an inharmonious use, and in cases of uncertainty the issue should go to the zoning board. Member Jordan echoed these thoughts. Member Hoff asked about the area that is subsurface gravel impact. Planner Durfee noted that this area impacts the outer 50 feet. Member Hoff stated that this is not a permitted use. He added that if we are engaging Mr. Ballestero, and the ZBA denies the variances , the applicant has now paid for a review that is no longer applicable.

Chair Goodnow summarized the evenings discussion, and noted that the board decided that the alteration of the surface configuration requires a variance. She noted that the board would like to see the hours of retail operation, the additional businesses, and the water

board's and conservation commission's analysis. Member Jordan noted that a CUP would be needed for the access ways for wet area overlays. Administrator Feigenbaum asked for copies of the new plans, and asked if the cut shed is a permitted use in the current location. Mr. Berry originally understood that the client want to enlarge/rebuild it. He would like this to be located inside the flood zone. Administrator Feigenbaum asked if this is a prior structure. Member Jordan asked if this could be included on the site plan. Administrator Feigenbaum asked if the storage and driving area is treated with salt. He added that the hours, and who uses the shed that lines the property may be an issue if the neighbor ever changes. He noted that the gravel in the wetland setback would be of interest to the conservation commission and water board. Planner Durfee noted that her review and memo are based on the past site plan before these changes and may not be entirely accurate after Mr. Berry reviewed the new changes. **Motion** made by member Jordan to continue the public hearing to June 1st 2022 at 7pm in the town hall. **Seconded** by Chair Goodnow. All Aye. **Motion approved.**

Member Hoff reviewed the transfer of information from Planner Durfee should in most cases go through the board before going to the applicant.

#### **5. New Business**

None

#### **6. Old Business**

Member Avery shared with the board the Landcare Site Plan from 1990.  
Meeting Adjured at 9:30

#### **Meeting Attendees:**

Steve Hagen - 15 Garrison Lane  
Fritz Green - 14 Garrison Lane  
Noreen Gaetjens - 65 Nute Rd.  
Travis Geratosso 196 Cider Hill Rd. York  
Peggy Wolcott - 98 Old Stage Rd.  
Kevin Baum - 127 Parrott Ave. Portsmouth  
Dan Magnahan - 68 Sagents Ln. Eliot  
Daniel Gordon - 175 PF Dr. Durham  
Deborah Ahlstrom 159 Drew Ln  
Garrett Ahlstrom - 159 Drew Ln  
John Bickford - 63 Moharimet Dr.  
Pat Bickford - 63 Moharimet Dr.  
Christopher Berry

Respectfully submitted by Michael Card