

PLANNING BOARD MINUTES
WEDNESDAY, JULY 19, 2023
MUNICIPAL COUNCIL CHAMBERS – 6:30 P.M.

Present: Michael Costello, Robert Bayer, Lisa Buck, Christa Schwintzer, John Beckett, Phil Ruck, Ashley Case

Absent: Judson McIntosh

Town Staff: Kyle Drexler, Jessica Chadbourne

Acceptance of the Agenda

Mr. Ruck asked for for a motion to accept the agenda.

Motion: Lisa Buck

Second: Michael Costello

Mr. Ruck called for a vote to accept the agenda, which passed with seven in favor and none opposed.

Approval of the Minutes of the May 17, 2023 Planning Board Meeting

Mr. Ruck asked for a motion to approve the May Planning Board Minutes.

Motion: Lisa Buck

Second: John Beckett

Corrections to the minutes were noted and Mr. Ruck asked for a roll call vote. The vote to accept the minutes passed with five in favor, two abstaining as both Ashley Case and Phil Ruck were absent from the May meeting.

Old Business

There was no old business.

New Business

Item A: A site plan review application by Orono Solar, LLC located on 90 Kelley Road, Tax Map 30 Lot 14, in the Economic Development Zone district. The application proposes to develop a 12-acre commercial solar energy system located in the rear of the lot behind the existing Boy Scouts of America building.

Mr. Ruck invited the applicant to introduce their project to the Board. Sean Thies from Haley Ward stepped up to the podium to present Orono Solar LLC's intended project at 90 Kelley Road. Orono Solar, LLC was proposing a 12 ac, approximately 1.99 megawatt solar project at the rear of a property currently owned by the Boy Scouts of America, from whom the land would be leased. Initial clearing of the lot would remove 17 ac of trees to allow room for the 12 ac solar array and its surrounding fencing. Access to the lot would be provided by the existing driveway on the property and via a gravel road would extend beyond the end of the existing paved area. The array will be located inside an 8ft chain link fence.

There is no proposed lighting, and the only noise will be from a small equipment pad located within the array. Up close it will emit a low humming that will not be discernible outside the immediate area. The areas immediately surrounding the proposed clearing are heavily wooded and separated from the adjacent residences by sections of lawn as well, so the pump station is unlikely to disturb its

immediate neighbors. There will be an overhead interconnection where it comes out along the existing driveway and it will tie in at the Kelley Road.

In order to maximize the efficiency of the proposed array, engineers will be installing a tracking system which will allow the panels to follow the sun's trajectory across the sky and absorb a higher amount of energy throughout the day than a stationary array facing in a single direction.

There will be no water or sewer use, or an expected increase in traffic. Once the site is constructed there will be regular maintenance visits, likely once a month. The cleared site will be grubbed and seeded over to be maintained as a meadow surface, per DEP requirements, and will be mowed no more than twice a year. There is a small amount of wetland impact where the access road runs towards the array, but it's under the 4300 sq ft exemption for needing a full wetland permit. It doesn't have to be permitted, just reported to DEP.

Mr. Ruck then invited Mr. Drexler to present his report to the Board. Mr. Drexler added that from a use standpoint this is considered a large scale solar energy system. He reminded the Board that a few years ago they had referred to Council an amendment to the Land Use Ordinance to include a specific use for solar projects. Because 90 Kelley Road is in the EDZ, its zoning allows for group development, meaning a property can have multiple principle uses taking place simultaneously.

The only comment from Town Staff was on the necessity of the road being 20 ft wide or more, in order to allow access to emergency services given the array's distance from the road and the need to truck in water in the event of a fire. The section of the road that passes through the wetland and is only 15 ft wide was an agreed upon compromise between the applicant and Fire Staff in order to minimize impact to the wetlands.

Mr. Ruck asked why there were no comments from the Town's Engineer, Mandy Olver. Mr. Drexler explained that Ms. Olver was consulted, but had no concerns or comments to offer. Neither did the Director of Public Works, Rob Yerxa. Mr. Ruck also asked about the change to the road width and why those numbers regarding the increased impervious area have not been corrected in Haley Ward's summary. Mr. Theis explained that the increase to the impervious square footage was minimal and they hadn't seen the need to re-run the numbers. Mr. Ruck requested that they provide a statement with the correct numbers for the road surface.

Mr. Ruck also asked about walking trails in the area that might potentially be interrupted by the proposed project. Mr. Theis replied that he thought there were some trails in the area, though he didn't know how official they were. He pointed out that obviously existing trails would not be able to run through the fenced area, but they had no problem with trails still passing through the cleared section of woods so long as they passed outside of the fences. Mr. Ruck raised the possibility of consulting with the Land Trust about possible trails and moving trails if necessary. Mr. Drexler suggested inviting a member of the Land Trust to the pre-construction meeting that would be one of the project's recommendations for approval.

Mr. Ruck asked for questions from the Board. Ashley Case asked about the 20-year decommissioning plan that had been provided and why, if the average solar project has a lifespan of up to 25 or 30 years, Haley Ward set their decommission plan for 20 years. Mr. Theis explained that the decommissioning plan is set up in case there's a total failure of the array so that, at any point in its lifespan, it can be completely decommissioned and removed without the Town incurring expense.

There were no other questions from the Board, so Mr. Ruck opened the public hearing. Mr. Jemison of 8 University Place asked some follow up questions about the forested buffer for the array. Mr. Blagojevic of 32 Myrtle St expressed his support for the project, but asked about the previously

existing right of way to allow for a road through the formerly proposed business park that would have connected Kelley Road to the nearby residential neighborhood. Mr. Drexler explained that that easement for the right of way had timed out a few years prior, so to do something similar to that original easement would need to go through the whole process of approval again.

Hearing no other questions, Mr. Ruck closed the public hearing. There were not additional questions from the Board either, so Mr. Ruck read the proposed findings of fact for the project and asked for a motion.

Motion: Lisa Buck moved the the Board approve the site plan for Orono Solar, LLC for a solar energy system located on 90 Kelley Road, Tax Map 30 Lot 14, in the Economic Development Zone district, with the following conditions:

1. Prior to the issuance of a building permit, the applicant shall provide to the Town a performance guarantee that will cover at least 100 percent of the estimated cost of removal of the solar energy system;
2. Prior to the issuance of a building permit, a pre-construction meeting be held between Town staff, an Orono Land Trust representative and any relevant developer parties so that a discussion can be had to make sure all conditions of approval have been communicated and the logistics of the construction process have been made clear;
3. That the applicant shall receive any necessary local, state, and federal permits or approvals prior to operation.
4. The applicant will include in the narrative the impervious surface calculations.

Second: Ashley Case

The vote to approve the proposed site plan passed with seven in favor, none opposed.

Item B: A site plan review application by Bangor Natural Gas located on 19 College Avenue, Tax Map 19-4 Lot 67, in the Medium Density Residential district. The application proposes the installation of a natural gas pressure regulating station, also referred to as an essential service by Town Ordinance, to be installed on the west side of the parcel behind the existing building. The project scope includes an access drive from the existing parking area to the back of the lot where there would be an approximately 2,200 sq ft fenced in area, surrounded by a buffer of evergreen hedges, to house the associated equipment and a 204 sq ft shed.

Mr. Ruck invited the applicant to approach the podium and present their project. Paul Monyok spoke on behalf of Haley Ward, the company handling the redevelopment of the property. He provided an outline of the proposed pressure regulation stations, pointing out on the site plan the outline of the gravel pad expected to underlay the station, the proposed parking area, the rows of hedges that would be installed to screen the property, and the chain link fence that would protect the equipment from the public and vice versa. Mr. Monyok also indicated areas of the property that would not be cleared, serving as additional screening. The station is intended to help with existing gas pressure problems on that side of the river, and to aid Bangor Natural Gas's (BNG) plans to expand further along their existing network of service lines.

Mr. Monyok explained that they would likely need waivers pertaining to water, sewer usage, and stormwater. There is also no signage being proposed for the project, and there is only one overhead light to illuminate the parking area next to the station. They don't anticipate much traffic at all beyond monthly service visits, nor is there currently any plan to demolish, repair, or otherwise utilize the existing structure at the front of the property.

Prior to purchasing the property, BNG had a full environmental assessment performed on the site that

determined there was nothing of immediate concern or a potential hazard to public health, so long as the existing structures on the property are not disturbed, which is why the station will be located to the back of the property and nothing will be done to the existing building at this time.

Mr. Drexler then provided his report to the Board. He identified the lot as being in the medium density residential (MDR) district, and explained that - unlike the existing grandfathered non-conforming use - per ordinance the regulating station is allowed in a residential district by virtue of being an essential service use, which can both exist in the MDR and co-exist on a lot that already has an existing primary use. He also pointed out traffic and pedestrian access to this property has been of concern to Staff in the past, and the proposed plan for the property would help to diminish the traffic impact.

Service use buildings have slightly different standards than typical structures. They have the same required 10 ft side setbacks, which are reflected in BNG's plans, and a 5 ft rear setback which the proposed gravel pad and structure are well within. The Ordinance requires service buildings to be of a material and style that blend into their surroundings, and Mr. Drexler directed Board members to a rendering of the proposed regulating station in the application packet that depicts it as being 10 ft tall and brown with a green roof. It is intended to blend in with the surrounding vegetation and the proposed hedge, which will in turn screen the regulating station from view of the abutting properties.

Mr. Ruck asked about the missing Fish and Wildlife agency letters. Mr. Monyok explained that they had received a letter from the Natural Areas Program, but had not heard back from Fish and Wildlife. Mr. Ruck reminded the applicant that they would need those on file. Mr. Monyok confirmed that any letters they had or would receive would be turned in to Mr. Drexler to be added to the application materials. Mr. Ruck also asked whether Mr. Drexler had reached out to the Town Engineer, Mandy Olver, for her thoughts on the project. Mr. Drexler replied that a copy of the application was sent to Ms. Olver as well as Public Works Director Rob Yerxa, and there were no comments from either.

Mr. Ruck asked Mr. Monyok to detail Haley Ward's hazardous waste disposal plan for any contaminated materials encountered during the construction process. Mr. Monyok explained that Haley Ward has an Environmental Division, and there were in fact the team responsible for the environmental assessment of the site. As part of that assessment they completed borings of proposed project site to determine if there was any contamination and, if so, what the extent of the contamination was. That team will be readily available during construction to conduct further testing and hazardous material detection as needed. If hazardous materials are detected they will be properly disposed of as hazardous waste. Mr. Monyok also explained that they only place they expected to encounter contamination is where the gas line will enter the property and move up the proposed driveway. Haley Ward is also working towards a VRAP (Volunteer Response Action Program) through the Maine Department of Environmental Protection as part of their second phase plans for the property.

Mr. Ruck asked for a lighting diagram for the single parking area light, to ensure that the illumination will not affect the neighboring properties. Mr. Monyok explained that the light would be up in its housing, fully shielded, and directed towards the parking area, away from the residential properties behind it. It's expected to provide about 20 feet of illumination so that maintenance staff can safely park and access the regulating station.

Mr. Ruck also asked about noise from the proposed station, and asked if Haley Ward could provide a sound diagram, or some specific decibel level data to indicate that the noise from the station will not exceed levels allowed by the ordinance. Mr. Monyok explained that noise levels for similar stations vary depending on the natural features that surround them. Haley Ward expects a light hum to be

audible if you're near the building itself, but will fall well under the lowest levels cited in Town ordinances. Mr. Drexler pointed out that sound levels are also something that can be enforced after construction by the Code Enforcement office if noise levels do end up exceeding what Haley Ward anticipates.

Mr. Bayer referenced the busy nature of the intersection just outside the property, and asked what would happen if a vehicle struck the building. Tim Garnett, Engineering Supervisor for Bangor Natural Gas, joined Mr. Monyok at the podium and together they explained that a vehicle strike was highly unlikely as, besides the building itself, the proposed fence, and the cedar hedges, there is a natural stand of large, mature trees between the building and the roadway which neither Haley Ward nor BNG have any intention of removing. The car would also have to breach the building itself before it would be able to come in contact with any gas-bearing pipework. Depending on the direction the vehicle was traveling from, the existing building would also block the path of any potential runaway vehicles.

Mr. Garnett also added that, with regards to the noise levels from the building, Bangor Natural Gas had contacted an acoustical engineering consultant who provided some input on the design of the building. The consultant was confident that with the right modifications to the building - for instance, proper insulation - that the decibel level outside the building will be negligible. From the property line a small amount of noise might be audible, but by the time you extend out as far as the nearest residence there should be no audible sound from the pump station.

Ashley Case asked about traffic onto the site, and what Bangor Natural Gas and/or Haley Ward's plans were to ensure that the existing building does not fall into disrepair while not being used. Ryan Rancourt, Engineering Manager for Bangor Natural Gas, explained that BNG plans to work closely with the Town to address any code issues with the property should they arise.

Hearing no other questions from the Board, Mr. Ruck opened the public hearing.

Mr. John Jemison of 8 University Place, Nancy Prisk of 7 University Place, Paul Murphy of 7 Park Street, and Amanda Albright Olsen of 1 University Place all offered comments on or asked questions about the project. Concerns were voiced about the current contamination on the parcel from the existing auto garage, about drainage issues along University Place, about the potential for noise from the equipment, and the plans to enclose and protect the machinery being placed on the property.

Mr. Monyok, Mr. Garnett, and Mr. Rancourt repeated the details of Haley Ward and Bangor Natural Gas's efforts and plans to navigate any contamination on site and to reduce the risk to neighboring residences of their digging into potentially contaminated soil. They also reiterated that the sound levels from the planned machinery were expected to be minimal, no more than 45 decibels when standing near the building, and all but indiscernible beyond the boundaries of the property. In response to further concerns about possible external factors damaging the equipment in question (the example given was a car running off the road at the corner of Park and College), they referred again to a map of the property and the number of factors that would make that unlikely.

Nancy Prisk asked if the results of testing done on the property pertaining to contamination could be made public. Mr. Ruck pointed out that it wasn't in the Board's purview to make a privately commissioned report public, but that once the results were submitted to DEP they became public records and it was recommended that Ms. Prisk reach out to DEP about acquiring the information.

Mr. Ruck asked for a motion to approve the submitted waiver requests for the project. Ashley Case pointed out that one waiver had to be exempted from the list, because it pertained to provisions for the handling of hazardous waste, which the Board was making a condition of approval.

Motion: Michael Costello moved that the Board approve the submitted waivers.

Second: Ashley Case

The vote to approve the waiver requests passed with six in favor and one abstaining, as Mr. Beckett is an abutter of the project.

Mr. Ruck read the proposed findings of fact and asked for a motion.

Motion: Lisa Buck moved that the Board approve the site plan application by Bangor Natural Gas to install a natural gas pressure regulating station at 19 College Ave, Tax Map 19-4 Lot 67, in the Medium Density Residential district, with the following recommendations:

1. Prior to the issuance of a building permit, Town staff and any relevant parties on behalf of the developer will hold a pre-construction meeting to discuss construction details, logistics, and establish points of contact. This discussion will include a Hazardous Waste Removal Plan that utilizes DEP expertise as needed.
2. The Applicant will provide the Town with copies of the Fish and Wildlife responses for the project file.
3. A lighting diagram detailing impact on the adjacent neighborhood and an estimate of the decibels to be produced by the proposed station will also be included in the plan.

Second: Ashley Case

The vote to approve the site plan application passed with six in favor and one abstaining.

Other New Business

There was no other new business.

Discussion

Mr. Drexler provided a short summary of projects expected to appear on the agenda for the August meeting, and appraised the Board of other potential forthcoming projects. At Mr. Ruck's request, Mr. Drexler also provided an update on the Comprehensive Plan process which is expected to begin in the late spring/early summer of 2024.

Adjournment

Mr. Ruck asked for a motion to adjourn the July meeting of the Planning Board.

Motion: John Beckett

Second: Lisa Buck

The motion to adjourn the meeting passed seven in favor, none opposed, and the meeting was adjourned at 8:55 pm July 19, 2023.