

TOWN OF LUNENBURG
Office of the Planning Board

Gregory Bittner, Chair
Matthew Allison, Vice Chair
Kenneth Chenis, Clerk
David Prokowiew, Member
Tanner Cole, Member



Tel: (978) 582-4147, ext 5
Fax: (978) 582-4353
960 Massachusetts Avenue
Lunenburg, MA 01462

Adam R. Burney
Land Use Director

Marjorie J. Boggio
Administrative Assistant

Minutes
Public Hearing
994 Northfield Road
August 27, 2018

Meeting Posted: Yes

Place: Town Hall, 17 Main Street, Lunenburg, MA

Time: 7:23 PM

Present: Matthew Allison, Kenneth Chenis, David Prokowiew, Tanner Cole, Adam R. Burney

Also Present: Town Counsel Adam Costa

Absent: Gregory Bittner

The Hearing was to hear and discuss an application for a Special Permit, Site Plan Approval, and Stormwater Management Permit under Chapter 250, Sections 4.13. (formerly 4.15.) and 8.4., and Chapter 204, Section 1 of the Code of Lunenburg, MA for construction of a 5.8 MW large-scale ground-mounted photovoltaic installation at 994 Northfield Road (Map 037, Parcel 0013) .

The Applicant, Settlers Solar, LLC, was represented by Attorney Michael D. Rosen, of Ruberto, Israel & Weiner, P.C., Ethan Gyles, PE, Development Manager, Nexamp; Alan Clapp, PE, Development Director, Nexamp, Daniel Wolfe, P. E. and Daniel Romero, Project Manager, David E. Ross Associates. Property Owner 994 Northfield Road, LLC, William Gustus was also in attendance.

A. Costa gave a brief summary of the project's history, noting applications for both special permit and site plan approval in August 2017. The Board held public hearings and in November 2017 voted to deny the special permit and site plan approval. The Applicant believed the permit to be constructively granted, stating the Board did not take timely action. The Applicant also filed a separate action appealing the Board's Decision and challenging both special permit and site plan approval. The Town filed suit challenging the Applicant's statement. There have been several discussions over the past nine (9) months in regard to the pending litigation. There was an unsuccessful effort to mediate the case. Plan modifications have been made to attempt to address Board concerns and are presented in tonight's revised plan and include changes to the project design and layout. There is also an application for a stormwater permit, which is not part of the litigation. The court has remanded the special permit and site plan approval back to the Board.

M. Rosen stressed to the Board that the agreement entered into during mediation is a **Contingent** Settlement Agreement as the full Board is not represented during mediation. The plans presented tonight contain three sets of changes: Changes discussed in January's mediation, changes as a result of the Board's Executive Session with Town Counsel, and final changes based on Graves Engineering, Inc. (GEI) August 15, 2018 review letter.

E. Gyles updated the Board on the increase in the decommissioning bond from \$60,000 to \$105,000. The \$10,000 tree fund agreed to in mediation has been increased to a total of \$50,000, which will be placed in escrow. The fund will be dispersed through a point of contact designated by the Board and will be for the duration of the project plus thirty-six (36) months. Any remaining funds will be returned to Settlers Solar. The emergency/fire protection plan will use a fault detection system with a 24 hour monitoring. After Board approval, if allowed under the Solar Massachusetts Renewable Target (SMART) Program, solar subscriptions will be marketed to Lunenburg residents at a 12 – 15% discount for 45 days or until the project is fully subscribed. Commitments made in prior hearings will be honored. The Applicant will enter into a PILOT agreement with the Select Board. The property owner will place a conservation restriction on the northerly portion of Lot 1A.

Changes to the site plan include- expansion of the no-cut zone on the east side of the southern boundary from 75 to 125 feet and from 50 to 150 feet on the west side of the southern boundary. The no-cut zone will be expanded along the westerly side of the project for an additional 50 feet. Adjustments were made to the gravel access road. The evergreens will be from nursery stock with a one year warranty. Per August 15, 2018 GEI review letter, there is a fence line shift.

The PILOT agreement, conservation restriction, public trail access, gate requested by the Fire Department and relocation of Knox Box (or moving the bar gate) will be a part of the Board's Conditions. If the modified Contingent Settlement Agreement is accepted and incorporated into the Decision, it will include these items up to the August 15, 2018 GEI review letter. A portion of the tree fund, up to a maximum of \$5,000, allows for the hiring of a landscape architect.

K. Chenis inquired about access through the buffer to the hiking trails.

D. Wolfe, David E. Ross Associates (DER), presented the Board with a site plan updated to August 20, 2018. He elaborated on the changes noted by E. Gyles. With a buffer increase to 125 feet on the east side of the southern boundary, the access road was dropped further south in order to relocate some of the deleted panels from the west side more easterly. The access road was then shifted more to the east to allow for additional relocation of panels due to additional tree shading. With the expansion of the buffer on the westerly side, panels were removed due to shading and moved to the east. The increase from 100 to 150 feet of buffering on the south border resulted in the loss of two lines of panels, which were relocated northerly. The fence that surrounded Basin 30 was relocated to the bottom of the exterior slope at the recommendation of GEI for ease in basin maintenance. No changes were necessary to the drainage calculations as there is now more undisturbed wooded area due to a more conservative design. There is no change to the panel count.

Hans Wentrup, 418 New West Townsend Road- Would like to see the natural vegetation remain and have the Applicant move the panels so no one from New West Townsend Road is able to see them. He would also like the access road to blend in with Northfield Road as Northfield is classified a Scenic Road.

M. Allison responded there will not be any new curb cuts on Northfield Road; access will be through the current golf course access.

M. Rosen stated that the concerns of H. Wentrup are addressed in this revised site plan.

For the benefit of the public, A. Costa explained the tree fund. An increased buffer is being provided around certain portions of the border of the project. There may still be some areas along the boundaries where the panels will still be visible. The fund will provide for additional screening in those areas; either on the Settlers Solar property or on properties abutting the project site. The funds will be utilized at the discretion of the Board for a period of up to thirty-six (36) months following completion of construction.

D. Prokowiew asked A. Costa what the timeframe would be for the stormwater permit. A. Costa responded that the stormwater permit has a 90-day timeframe, whereas the remand order required the public hearing of the site plan approval and special permit be conducted within 60 days. He recommended the Board not close tonight's hearing and suggested he draft a decision to bring to the Board.

A. Burney noted that the stormwater special permit would memorialize stabilization, erosion control, etc.

K. Chenis made Motion to continue the Hearing to September 10, 2018, Second, D. Prokowiew; discussion, A. Burney asked the Board if there were specific items that required further information from the Applicant. K. Chenis requested that the gate identified by the Fire Department and relocation of Knox Box (or moving the bar gate) be incorporated into the plan. T. Cole inquired if the Applicant should put all the details in writing; specifically the conservation restriction and easement. D. Prokowiew inquired how trail access will be negotiated through the wetlands. E. Gyles suggested access possibly through the east side instead of through the wetland fingers.

A. Costa will work with M. Rosen to draft a Decision and proposed form of easement.

T. Cole asked if there was detail on the utility inter-connection. E. Gyles responded it will be on the back lawn of the golf course clubhouse and will connect to Northfield Road. The Applicant has an inter-connection agreement with UNITIL; UNITIL has the final say as to pole construction.

K. Chenis made Motion to continue the Hearing to September 10th, 6:35 PM, D. Prokowiew Seconded, all aye.

Hearing recessed 8:56 PM

Documents used at meeting:
Special Permit and Site Plan Approval Application
Stormwater Special Permit Application
Site Plans