

MINUTES
Business Meeting
Sanbornton Planning Board

Meeting Date and Time: Thursday, February 21st, 2019 at 6:00 PM

Meeting Place: Old Town Hall

The meeting was called to order by Don Bormes at 6:00 PM

Roll Call

Regular Members present: Will Ellis, Don Bormes, Selectman John Olmstead, Debra Schneckloth

Alternate Members present: Justin Barriault, Andy Sanborn

Absent: Jody Slack

Others Present: Town Planning Assistant, Stephen Laurin

New Business

a. Site Plan - Public Hearing

Property Owner/Applicant: Tara L. Stewart/James Westlake-Toms

Subject Address/Tax Map & Lot: 12 Davis Road, Tax Map 10, Lot 116.

Description: Site Plan application proposing an events venue, to include private gatherings, weddings, corporate events, farm-to-table dining, etc. The proposed activities are to remain incidental and in conjunction with farming operations, in conformance with State Statute 21:34-a, II, b(5) (Farm, Agriculture, Farming). The property lies within the General Residential Zoning District.

Don Bormes stated that Justin Barriault will be seated as a voting member in place of Jody Slack. Attorney Brian Bouchard explained that this site plan was accepted on January 21st by the Planning Board; he stated that the applicants own a 30-acre parcel in which they keep alpacas, chickens and crops, and they file taxes as a farm. He explained that their plan is to host modest agritourist events in accordance with the RSA and that no new buildings will be constructed, and that any events will be hosted in an already existing barn. The buffering and screening of natural vegetation will help with light and noise, and the noise limit they are proposing is 85 decibels at source for amplified music, which the Planning Board agreed to as part of the KREBS Farm events venue application as well. He pointed out areas of illumination on the site plan, explaining that portable solar lights will be used for lighting walkways to the barn and parking area, and these should not have a negative impact on abutters. Fifty parking spots will be provided for on grass but will not impede access to the pond on the property. In October of last year there were three weddings in the area, at Steele Hill, KREBS Farm and this property, and there were no complaints received about traffic.

Justin Barriault asked what farming is shown on the site plan. Attorney Bouchard responded that the site plan is showing the building and issues related to the site plan such as lighting. Justin responded that the application is based on having farming, which he does not see on the site plan. Tara Stewart stated that they have four alpacas, 20 chickens and 50 blueberry bushes, and plans to plant 50 more, as well as produce in a raised garden bed and farm stand. They also sell wood ash. Debra Schneckloth stated that she is concerned about noise and feels that it would exceed 85 decibels once you include 100 people talking, laughing, etc. on top of that. Will Ellis explained that the State's regulations have changed and there is no longer a monetary threshold for a farm to qualify as a farm, and stated that the word "weddings" is not included in the definition of agritourism. Attorney Bouchard responded that the list of approved activities is not exhaustive, but that does not mean that weddings are prohibited because they are not on the list.

Will stated that he is concerned about adequate lighting of the parking area and concerned that the parking is on grass which could be a safety hazard for guests. Applicant James Westlake-Toms responded that the Police Chief would also look at the lighting and if he has concerns they would address those; he stated that the State regulation is .5 foot candles and they will exceed this. Attorney Bouchard stated that if the Planning Board visited the site and saw the lighting, they would agree that it is adequate. Debra asked if there would be lighting or noise from the events tent, and Tara responded that lighting would only be inside the tent and provided by the rental company and that there would be no amplified music.

Steve Laurin read a letter from George and Christine Boyer of 258 Upper Bay Rd.; the Boyers see no issues with the project as presented and have not felt any negative impacts from traffic, parking or noise from past events held at the property. Steve also read a letter from Richard and Clare Mills of 21 Davis Rd. who were also in attendance; the Mills' are worried about their property values and expressed concerns about parking. Richard Mills asked what requirement the applicant meets for agriculture and Don Bormes responded that they adhere to the requirements of the State as the RSA is written. Richard responded that he feels this proposal is to build agriculture around agritourism. Clare Mills asked if there can be a limit of events per year and Attorney Bouchard responded that these cannot be limited in the site plan. He also stated that if events become the principal use of the land, the site plan can be revoked.

Jim Sweeting stated that his home is located between KREBS Farm and this residence, but he was not negatively impacted by the three events at KREBS Farm last year. He explained that the concern of added noise from event guests, brought up by Debra Schneckloth, would actually muffle the 85 decibels from amplified music so he is not concerned about this. He also stated that his property value went up during last year's revaluation. Michelle Jackson stated that there is a home business noise regulation in the Ordinance and is worried about sound travelling out of the barn.

Tara Stewart explained that there would be no events held during the winter because the barn is not heated. Justin responded that if this was to change, the Planning Board wouldn't have any authority if they approve the site plan today. Attorney Bouchard responded that the law does not state that there is a number of events versus amount of agriculture to meet, but that events cannot exceed farm activity; an event every weekend would surely constitute the main use and would mean that the applicants are in violation. Justin stated that he feels that this proposal is not in line with the intention of the RSA, which was created to help struggling farms stay in business.

Don Bormes made a motion to approve the site plan as presented. Debra Schneckloth seconded the motion and the motion failed 4-1. Olmstead – Yes. Barriault/Schneckloth/Bormes/Ellis – No.

Attorney Bouchard asked for the reason of denying the application. Will Ellis responded that if the site plan didn't say "weddings" he would have voted in favor of it. Other members who voted No agreed that there is not enough agriculture currently taking place on the property to constitute having events. Don Bormes stated that income from events will exceed the income from farming at this time and suggested applying for a use variance from the ZBA.

b. Non-Public Session under RSA 91-A:3 II (I) – Debra Schneckloth was not present, as this non-public session is in relation to a case which she has recused herself from.

Selectman John Olmstead made a motion to enter non-public session at 8:00pm. Justin Barriault seconded the motion and the motion passed unanimously. Roll Call vote: Ellis/Bormes/Barriault/Olmstead/Sanborn – Yes. During the non-public session, the Planning Board made a decision to make an effort to locate different engineers than the firm decided on at the last Planning Board meeting (North Point Engineering).

Selectman Olmstead made a motion to leave non-public session at 8:21pm. Andy Sanborn seconded the motion and the motion passed unanimously. Roll Call vote: Ellis/Bormes/Barriault/Olmstead/Sanborn – Yes. Selectman Olmstead made a motion to seal the minutes indefinitely. Justin Barriault seconded the motion and the motion passed unanimously. Roll Call vote: Ellis/Bormes/Barriault/Olmstead/Sanborn – Yes.

c. Site Plan Acceptance & Public Hearing

Property Owners/Applicants: Guy J. (Jr.) & Marie Giunta, and Anthony & Joseph Giunta/Andrew Kellar, New England Solar Garden.

Agent: J. Chris Nadeau, P.E., Nobis Group.

Subject Address/Tax Map & Lot: 63 and 71 Tower Hill Road; Tax Map 22, Lots 14, 19-2, 19-3, and 19-5.

Description: Proposed development of ground-mounted photovoltaic arrays on the land parcels noted above, for the generation of 13 megawatts, AC, of solar power. The project is located off of Tower Hill Road and Giunta Drive, and lies within the Historical Preservation, Forest Conservation, and General Agricultural Zoning Districts.

Debra Schneckloth recused herself from this portion of the meeting. Andy Sanborn was seated as a voting member.

Michelle Jackson spoke to the Board and asked if they would consider asking Andy Sanborn to recuse himself, as he has made public comments online related to his opinions on this project. She stated that this show bias from a Board member and that he has already formed his opinion on this case and should not sit as a voting member, as per RSA 673:14. Don Bormes stated that if Andy would need to recuse himself based on that RSA, then every other member would need to recuse themselves, as they all have opinions one way or another about this case. He asked Andy if will be able to review this case based on its merits alone and Andy responded Yes.

Don Bormes asked Steve Laurin if he believes the application is complete. Steve responded that the plans are still missing information but at a basic level, the plan addresses all the requirements of the ordinance. Don stated that he knows now that Eversource cannot provide an interconnect agreement until the project is complete and is satisfied with that information (the interconnect agreement was requested of the applicant at the January 17th). Will Ellis made a motion to accept the application as complete. Andy Sanborn seconded the motion and the motion passed, with Justin Barriault abstaining.

Sean Colella of Nobis Engineering walked through the site plan and showed the five parcels of property included in the project. Will Ellis stated that he thought lines would be buried underground at this project as discussed at the PILOT agreement hearings; Andrew Keller of NH Solar Garden responded that lines would be buried in each of the five arrays, but then each array connected with overhead wires as underground wires would be costly. Andy Sanborn asked about drainage plans and Sean responded that a full drainage design is not provided yet as this is time consuming and would need to change if any changes were made to the plan for location of arrays. Andy also asked if there is a possibility for the panels to follow the natural typography of the land. Chris Nadeau of Nobis explained that most of the land has slopes under 20% grade, but for those in the northern areas they will need to do some grading.

Will Ellis asked about a preliminary plan for drainage; Chris responded that panels would have drip edges and that culverts would only be used for drainage under roadways. Don Bormes asked how erosion would be prevented. Chris responded that this would be shown on the Alteration of Terrain permit and they would use wood chips or stump grindings temporarily until grass grows. He explained that the new guidelines from the State now describe the total area of disturbance to be the land encompassed in solar arrays, but when the application was originally submitted to Steve, it was just the area of actual ground disturbed. Don stated that he is concerned about neighboring property values and Andrew Keller responded that there are several studies that show that property values are not diminished, but no studies from New Hampshire.

Will Ellis stated that there is no way to hide the solar arrays as they are on a hill, and Andrew responded that this is true but there is sufficient buffering from abutters and this adheres to the ordinance. Justin Barriault stated that the southern corner of the project shows that one array is only 27 feet from an abutter, and stated that there should be plenty of land to move this over a bit. Sean Colella responded that this can be looked at and asked what number of feet he would rather see. Don Bormes stated that this is something the engineer could look at when reviewing the plans for the Planning Board. Steve Laurin noted that there is a required 75-foot wetlands buffer and this is not shown on the plan. He also noted that there is a right-of-way shown on lots 19.5 and 19.2 and that an easement would be needed for that. He asked if the applicants could come into the office to discuss some of these issues and they responded Yes.

Don Bormes asked the public for comments and questions. Debra Schneckloth stated that the right-of-way that Steve mentioned is deeded as hers, and is meant for residential use and not commercial. She is also concerned that Parsonage Brook is not on the plan at all. Steve Laurin read a letter from Michelle Jackson and other abutters which expresses their concern about the application and plan's inconsistencies; they are concerned about the wetlands not being shown on the plan and that no interconnect agreement has been provided. Steve also received a letter from LRPC with their comments.

Don Bormes made a motion to continue the hearing at the March 21st meeting. Justin Barriault seconded the motion and the motion passed unanimously.

d. Subdivision Application.

Property Owners/Applicants: Scott and Marcy Kelley

Agent: Bryan L. Bailey, LLS

Subject Address/Tax Map & Lot: 37 Tower Hill Road; Tax Map 22, Lot 21.

Description: Proposal to subdivide a 4.4 acre lot into two lots consisting of 2.5 acres and 1.9 acres. The parcel is located in the Village Historical Preservation Zoning District. (PB2019-02)

Debra Schneckloth was seated as a voting member.

Steve Laurin noted that there was a request for a waiver for granite markers; surveyor Brian Bailey stated that there is a stone wall that would be impacted by this marker and that they are expensive to put in. Don Bormes stated that there looks to be an opening in the stone wall in the southwest corner of the property and would like to see a granite bound there, but rebar bounds can be used along the roadway so as not to disturb the stone wall. Debra Schneckloth made a motion to accept the waiver. Justin Barriault seconded the motion and the motion passed unanimously. John Olmstead made a motion to accept the application as complete. Will Ellis seconded the motion and the motion passed unanimously.

Brian Bailey explained that there are currently no pins on the backside of the property because it appears that the boundary is in the middle of a brook, but he plans to put in new pins. He stated that test pit data has been sent to DES and they have granted subdivision approval. Steve Laurin noted that steep slopes, benchmarks and test pit data are not shown on the plan. Brian responded that there are no steep slopes and that test pit data should not be shown on plans registered at the Registry of Deeds because future owners of the land will have that data which he is liable for. Debra asked if the applicant would need to sign a hold harmless waiver because the well radius on this plan extends to Tower Hill Rd and could potentially be contaminated. Brian responded that the town would be liable for any contamination because the well is over 50 feet from the road. Don Bormes stated that he would like to have test pit data included on the plan because this is required in the Town's regulations at this time, but the Board can look at changing this.

Selectman Olmstead made a motion to approve the subdivision as presented with the addition of a granite bound in the southwest corner of the property as discussed and test pit data shown on the plan. Will Ellis seconded the motion and the motion passed unanimously.

Meeting adjourned at 10:15 pm.

**Respectfully Submitted,
Audry Barriault**