

# NORTH BERWICK PLANNING BOARD

## MINUTES OF PLANNING BOARD JULY 9, 2020 ZOOM MEETING

**Present:** Chairman Geoffrey Aleva, Anne Whitten, Matthew Qualls, Scott Strynar, David Ballard, Roger Frechette, CEO

**Absent:** Jon Morse

**Also Present:** Lee Jay Feldman from SMPDC, Isaiah Plante, Silas Canavan, Timothy Kezar, Carolyn ?, Jordan Belknap, Troy Williams, Renee Williams, Denise Mayfield

1. Call To Order:

Chairman Geoffrey Aleva called the meeting to order at 6:33 pm.

Chairman Aleva moved Scott Strynar up to full voting status.

2. Review Previous Minutes:

David Ballard motioned to approve the minutes from June 25, 2020 as written. Anne Whitten seconded the motion. VOTE: 4-0 Abstain: 1

3. Current Business:

3.1 Public Hearing – 6:30 pm

TPE NB11, 30 Coffin Ln.

Tax Map: 001 Lot: 037B

Request: The applicant proposes to install an 18.2-acre Solar Array on the 60.8-acre parcel of land owned by Richard W. Crispin

Chairman Aleva stated that he would like to have Lee Jay Feldman from SMPDC and Roger Frechette discuss any comments or concerns they have with the project.

Lee Jay Feldman stated that his report is fairly lengthy so he will not go through the entire memo. He knows that the Board has seen the plans and done a site walk to review the project. He stated that, between yesterday and most of the day today, there has been a flurry of activity between the Project Engineer, the 3<sup>rd</sup> party review engineer from Underwood Engineering and himself regarding issues surrounding State and/or Federal permitting that may or may not be required. He will let Silas Canavan discuss some of these items. He stated that they also got a lot of issues taken care of during the day including a revised plan set that addresses many of the issues. Mr. Feldman stated that he had a list of recommended conditions of approval for the

Board to consider but many of them will go away because they have been addressed. Some of the conditions are still relevant for the Board's consideration because they will need to occur during or after the construction of the facility. Mr. Feldman stated that he will leave it at that for now because it is a fairly wide bit of conversation regarding the permitting. In some cases, it is somewhat complex because it deals with Army Corps of Engineers issues, design around stream alterations and it deals with wetland and vernal pool issues. He stated that his Findings of Fact will not be available this evening because he will need to make changes regarding the discussions he had today and regarding what the Board will be deciding on tonight.

Roger Frechette stated that he did not have anything to add at this time.

Chairman Aleva stated that they had the peer review done by Underwood Engineering. They replied with some comments earlier this week to the design engineer and there has been some back and forth going on with that.

Silas Canavan from Walsh Engineering and Jordan Belknap from TPE 11, LLC came forward to discuss the project. Jordan Belknap stated that they have done many solar arrays and have many under development in the State of Maine. They primarily do community solar projects which allows residents of Maine and customers of Central Maine Power to participate in a credit for the electricity for solar array to save money. The idea for these arrays is that they can find a larger parcel, build at an economy of scale for the project and save on a per watt basis to the cost of installing solar. It is similar to installing it on your roof, but it separates the physical nature of your house and your roof. It puts it somewhere else and CMP will give you credit on your electric bill. He stated that, projects like this have recently been legislated under Maine Law LD 1711 which allows projects up to 5 megawatts to participate in the community solar model. Mr. Belknap said that they think that they have a good parcel that is well screened.

Silas Canavan reviewed the plan and showed everyone where the array would be located on the site. The left-hand side is currently developed with residential property and is farmland. On the right side where the array is going is primarily wooded. Beaver Dam Brook is on the bottom of the site and there is a stream that bisects the top of the property to the bottom. There is also a 150-foot-wide CMP transmission corridor that runs on the property. There is an easement for that and it is along the top of the property. Mr. Canavan stated that there are some wetlands on the site located adjacent to the Beaver Dam Brook and also adjacent to the unnamed stream. He stated that there are 2 vernal pools on the eastern side of the property. Mr. Canavan stated that the property is located in the Residential I Zone and there is a portion located within 250 foot of the Beaver Dam Brook that is in the Shoreland Zone.

Mr. Canavan stated that they are proposing a 5-megawatt solar array which will be located on the eastern portion of the site. There is a new gravel drive on the left-hand side that will be used to access the site. They will come in off of Coffin Lane on the existing driveway and turn onto the new gravel road to get to the site. On the left side of the road where it ties into the existing gravel drive, there is actually a corridor through the woods already. They are going to utilize

that corridor with that drive and maintain the alignment as it runs toward the solar array. They are chipping the connection point by 25 to 30 feet and utilizing an existing clear area. This was requested by the property owner so it would reduce the impact on the field. On the road going towards the array, there is a stream crossing that will be a bottomless boxed covered stream crossing. This will not impact the stream or any adjacent wetlands. They will go over the stream and then it will get into the fenced in area of the array. There will be a 7-foot-tall chain link security fence that wraps around the entire array. They will need to clear a little bit above the array to try and maximize the light.

On the right-hand side are the vernal pools. They have made the assumption that these are significant vernal pools. They were not able to be assessed during the typical breeding season. By making this assumption, they have applied the most stringent restrictions associated with those vernal pools. Mr. Canavan stated that they have a minor bit of clearing on the top side of the vernal pool buffer. This was permitted by the Maine DEP with a Permit By Rule and it has been approved. There is no impact to the other vernal pool buffer.

Mr. Canavan stated that there are a couple small patches of wetland located around the center of the property as well as in the left-hand corner of the site. This was identified as a potential vernal pool, however it is manmade. It is an excavator hole, so it was most likely a pit. This is not regulated by the DEP. They are paneling over these, however they are not going to disturb any soils in these wetlands. The Army Corps of Engineers does not regulate this type of installation in a wetland. They will also not regulate the area where they are using a bottomless boxed covered stream. They did get a Permit By Rule approval for the stream crossing which has been provided to the town. The area where they will be doing some clearing is about 150 feet from the property line. Some portions come about 100 feet where the brook bends in. Generally, they are about 100 to 150 feet away from the brook and the property line. There is a significant amount of vegetation on the other side on the abutter's property as well.

Mr. Canavan stated that they do have to do a small amount of grading to flatten one of the areas out. It is a little bit steeper than the 15% grade that is reasonable to install a solar panel so they will need to flatten it out a bit. Regarding stormwater, drainage will basically remain the same. The project does not result in any increase in stormwater peak flow rates for the 100-year storm. These have been reviewed by Underwood Engineering and there were no comments on this. The DEP considers a solar array to be a self-treating development because it will be a meadow area under the array. It will only be mowed a maximum of twice per year which they effectively call a buffer. The panels and the associated posts will be treated by the meadow under the solar array. This is a standard practice with the DEP.

Mr. Canavan stated that will have an overhead utility connection on the left-hand side of the array that follows the access road. There will be a few utility poles there and it will tie int to the existing overhead system that comes up the driveway from Coffin Lane. There will not be any additional poles out on Coffin Lane. There will be some internal for the site.

Mr. Canavan said that they received the comments last night from Underwood and they have spent most of the day trying to clarify them. In his opinion, a lot of the comments were more for clarification and there were a few things that were asked to be added to the plan. In general, this project required Stormwater Permit By Rule due to its size and the amount of impervious area associated with it. This permit has been approved and has been provided to the town. It also required a Natural Resource Protection Act Permit By Rule for the stream crossing and the work within the 250 feet of the vernal pool. Both of these have been approved by the DEP and they have been provided to the town.

One of the big questions from Underwood today was whether the Army Corps of Engineers required a permit for this project. Prior to their submission they had a number of discussions with the Army Corps and they verified today that they do not require permitting. He has a letter from them stating that no permit is needed from them. This is because they are spanning the stream completely and not having any fill in the wetlands. They have also provided this to the town. He stated that they did provide a response package to the comments that were in SMPDC's review memo and can review with the Board as well. Chairman Aleva stated that they will address these after the public input.

Chairman Aleva opened the Public Hearing at 7:00 pm.

Timothy Kezar lives at Map 1 Lot 37-13 on Meehan Lane. He is a former Planning Board member, is currently on the Zoning Board of Appeals and is the Town Moderator for the Town of North Berwick. He stated that there is a pretty big valley between his property and the edge of the railroad cut. If you are on the edge of his property and looking west, you are looking peak to peak. He has a couple questions regarding visual and auditory. With the deforestation of 18 acres, in autumn and winter, will he see this array out is his back window? Also, there is a railroad that runs out there and he can hear it from where he lives on Meehan Lane. They hear it more in the winter because they don't have leaves on the trees. It is mostly deciduous forest behind him. With the deforestation of 18 acres, he believes that they will hear the train a lot more all of the time. It is a quality of neighborhood and quality of life issue for him. These are the issues that he would like to have addressed.

Silas Canavan stated that they did respond to the emails and letters that had been forwarded to them from the residents. Besides the response tonight, there is also an official response that was provided to the town. Jordan Belknap went on to read the question that was sent in along with their response. Regarding the letter from Timothy & Wanda Kezar:

1. It appears from the map that the solar array will be at the crest of the hill on the further side of the end of our property line (rear), (i.e. Beaver Dam Brook is the valley and at the rear of our property line). Will the array be screened with existing tree growth that will not be cut? Will the array be visible from Meehan Lane during non-foliage seasons?

The response is: The project will be installed in the northwest of Beaver Dam Brook. It will

maintain a minimum 150 feet of existing vegetated buffer from the brook. The array itself will be located 250 feet away from the brook. It is possible that you will see some portion of the array, but it will be through 150 feet of existing vegetation.

Mr. Belknap stated that they do plan to keep an existing buffer out there. He doesn't want to say that no one will be able to see the array because he realizes in winter conditions you can see further into the trees than you can in summer. They will not be cutting the trees in the Resource Protection area. The area that they are cutting will not be stumped and made into a field so it will grow up again. If it starts to impact the performance of the solar array, they would like to manage the vegetation in that area. Mr. Kezar asked how high the solar array was from the bottom to the top. Mr. Belknap stated that they are typically under 10 feet. They are usually 8-9 feet, but it varies depending on the terrain.

Chairman Aleva asked if they knew the rough elevation differences between neighborhood, where it goes down to the valley and back up to the solar array properties. Mr. Canavan stated that they did prepare a graph, but it was not provided to the Board. Basically, the elevation at the neighbor's houses on Meehan Lane is at about 170 feet. The top elevation of the solar array is about 156 feet. There is about a 16-foot grade change from house to top of array. The elevation from the house to the bottom of the array is about 136 feet. The array itself spans about 20 feet vertically along the slope.

Timothy Kezar asked if the chain link fence could be a stockade fence instead. Chairman Aleva stated that it is a security fence that is a mandated requirement that he believes they need a barb wire top to it. Mr. Canavan stated that they are proposing a chain link fence because that is pretty standard in the industry. He is not sure if a wooden fence would be allowed. There could be some electrical code issues with it. Mr. Kezar would like the Planning Board to consider this option because a fence that cannot be seen through would probably eliminate some of the problem if the height was right.

Matthew Qualls asked if the panels moved or are they fixed in a certain position? Also, will there be any glare that might shoot light at the neighbors. Mr. Belknap stated that they are fixed tilt array which means that the panels are pointed in a southerly orientation. They are tilted at about 20 to 25 degrees. All panels now have an anti-reflective coating. They are designed to absorb the sun, so the chances of glare are not common.

Chairman Aleva asked if any of the Planning Board members that went to the site walk had any comments. Scott Strynar stated that it is pretty densely vegetated right now. He agrees with Mr. Kezar about the amount of deciduous material there. There is a lot of evergreen sporadically through it.

Mr. Belknap stated that they would not be opposed to planting some vegetation instead of a stockade fence. He finds that this is pretty effective screening. They would pick a certain species that would grow to provide adequate screening but would not grow too high to impact

the solar array. This would be a little higher than the stockade fence and is pretty common in their installations when visibility is an issue. Lee Jay Feldman stated that he was involved in another solar project in Berwick. Visibility was also an issue there. He stated that rather than it just being a row of evergreens, they should plant them in a way that is more natural. They wouldn't be like a typical 2 rows that are 9 feet apart but make it more natural in growth. Mr. Belknap stated that they can prepare a vegetation management plan for the area that they are proposing to cut. It would be a more natural spread of trees. They would propose that they be allowed that when trees reach a certain height for a certain distance away from the solar module, they can selectively cut those trees because they would be impacting the performance of the solar array. Mr. Feldman is going to suggest that the cutting line be marked and that a 3<sup>rd</sup> party inspector be on site during the cutting to make sure that an overcut doesn't occur.

Jordan Belknap went on to read the 2<sup>nd</sup> question in Mr. Kezar's letter:

2. Current forest vegetation (trees) help shield railroad noise from the Boston and Maine line. Has research been done to show the impact of increased noise due to the elimination of vegetative buffer? (18 acres of trees).

The response is: The project itself will not generate any noise. In addition, we are only clearing 18 acres of the trees on a 60-acre parcel, so we are still maintaining a significant buffer of trees.

Mr. Belknap stated that they were also talking about if they can manage the area that can be selectively cut. He stated that the solar array is a silent neighbor. During the 3 or 4 months of construction, there will be noise because there will be trees cut and the arrays will be driven into the ground. After the project is completed, it is all monitored remotely and the solar panels make no noise. He does not own the Boston & Maine Railroad so he can't speak to how loud that is or how that may change. He believes that if they work with the vegetated management area, we can help with this and still maintain the performance that they are looking for with the solar array.

Timothy Kezar asked if the solar arrays have the ability to amplify sound waves as they bounce off of them. Mr. Belknap does not see how it would amplify the sound, but he will research it.

Chairman Aleva asked Anne Whitten to read the email from Denise Mayfield into the minutes:

Good afternoon,

I do have a few questions concerning the proposed Solar Array on Coffin Lane.

1. Is the land currently wooded, or is it a field?
2. If it's currently wooded, what animals will be disturbed? We have a few bears that live in the area.
3. If it's a field can we expect rodents to move to our property?
4. Who will benefit from the electricity produced from the solar array?

Thank you,  
Denise Mayfield

Jordan Belknap responded as follows:

1. The project is proposed on land that is currently forested with an electrical transmission right of array running along the northwestern portion of the property. The project proposes to clear approximately 18 acres of a 60-acre parcel. Cleared areas will be revegetated with low growth pollinated friendly ground cover below the solar array and a native low growth wildflower mix around the perimeter that shall create a robust new habitat beneficial to many small native species. In addition, the fence will be raised approximately 4 inches above the ground to allow small animals to exit and enter the area. A natural vegetated buffer is being preserved along the eastern edge of the property and will also remain suitable for wildlife habitat.
2. They do not know with certainty what species live in the area or on adjacent parcels but the project was screened utilizing publicly available online GIS data from the State of Maine including Inland Fish and Wildlife habitat, deer wintering areas, and threatened and endangered species lairs. In addition, a Natural Resource Wetland survey was created by TRC in 2019 and the project is minimizing impact on onsite wetlands and vernal pools.
3. The parcel is not currently a field.
4. The project is planned to be a community solar project. It will provide clean renewable electricity to Maine residents and/or municipalities. Subscriptions will be made available to interested households including residents of North Berwick that will allow residents to save money on their electric bills. Beyond the direct electricity benefit from the project, the project will reduce pollutants equivalent to 3,700 metric tons of carbon each year which is the same as the CO2 emissions from using 417,700 gallons of gasoline and the project will support 30-50 jobs over approximately a 12 month period.

Anne Whitten read an email from Joy Cacoulidis into the minutes:

To Whom it May Concern,

This is in reference to solar panels being installed on 18.2 acres on the property of 30 Coffin Lane. My concerns are for property value on the end of Randall Rd, in addition to the clearing of 18.2 acres. Is this for commercial use? Is the land being leased for the property owners use of solar power? What about wildlife impact especially with an active railroad so close.

Also, solar glare for the Downeaster train going by? Change of Navigation Maps for private and commercial pilots for this new landmark?

Thank you,  
Neighbor at Randall Rd.

Mr. Belknap stated that they received this at the last meeting and sent the responses to Roger, so he doesn't have it in front of him. He stated that they are planning to lease a portion of the subject parcel from the current owner. The FAA screening tool that they use allows them to provide a letter stating that there is no navigation difficulty for airplanes with the project. This is pretty standard for a project of this size. He believes that he addressed the wildlife question and the glare question already tonight.

Chairman Aleva closed the Public Hearing at 7:24 pm.

Anne Whitten asked if they had a year end date lease on the property. Mr. Belknap stated that it is a 25-year term with 3 optional 5-year extensions. Projects of this nature need a 25-year minimum term for financing. The nature of the solar array is that there is up front cost to build it and then very low maintenance and have zero fuel costs going forward so you need a long run to finance the project. It produces revenue during that period of time. Then they have options to extend that period. Mrs. Whitten asked if they had a take down plan for whenever their lease is up. Mr. Belknap stated that they submitted a decommissioning plan to Roger today. The panels get removed and recycled and properly disposed of. The steel comes out of the ground and the concrete pads get broken down. Any disturbance from actively decommissioning the array will get reseeded and stabilized.

Matthew Qualls asked what happens if it gets sold. Mr. Belknap stated that it goes with the project. If they get sold, the conditions of the approval of the project goes along with those projects. One of the reasons that our applicant has the name of LLC is because we create an LLC as a project company for each solar project. It does allow it to be sold but everything is written to the LLC so if the permit is approved, than the new owner has permission to own a solar array. Everything gets dragged along with it including the financing.

Anne Whitten stated that they said they have the stormwater permit, stream crossing permit and the permit from the Army Corps of Engineers. They also mentioned that they had another Permit By Rule for the vernal pools. She asked if the town had been given that permit. Mr. Canavan stated that the NRPA Permit By Rule includes 2 things withing 1 permit. It is a stream crossing permit and it is also the permit for the work within the 250-foot vernal pool buffer. Those have all been provided to the town.

David Ballard stated that they indicated that the stream would not be impacted by the crossing. He asked if they had a drawing or if it was indicated on one of the sheets of the plan. Mr. Canavan stated that it is called out on sheet C2.1. There is a note that says, "44-foot-long by 5-foot-wide 3-sided box culvert to bridge stream.". It is also references a detail which is detail 5 on sheet C3.1. Along with that detail there is also a section that goes along with it that shows how we are bridging the stream. Mr. Ballard said that the reason he asked about it is because there was a pretty big gradient difference between the 2 sides. He would like to see how it is done and how it doesn't interfere with the stream and see what kind of slopes they are looking at. Mr. Canavan stated that

the road is actually going to cut into that bank a little bit. They are cutting into the bank about 2 or 3 feet at the top of the bank so it will cross the stream a little bit higher but then it will tie back in at the other end of the stream just slightly above the existing grade.

Roger stated that there is quite a bit of trash everywhere and he would like to see it removed when they are out there. Chairman Aleva said that they can make it a condition of approval. Roger also asked if the road was going to be sufficient enough for all of the traffic. Is there anything in place to upgrade? Mr. Canavan said that they feel the road is adequate for construction access. There won't be any day to day access once this is built. It appears to be wide and adequate enough for them for the construction vehicles. Lee Jay asked them to speak to the post construction access to the site which he assumes is only for any maintenance required on the property. Mr. Belknap said that the site will be remotely monitored. There will be an operations and maintenance contractor hired to monitor the site. If there is an issue, it is typically 2 people in a pickup truck that go out to the site to replace something. In addition, the site will need to be mowed up to 3 times per year. It will probably be an average of 1 time per month. Anne Whitten asked about how long the project will take to complete. Mr. Belknap said it would take about 3 to 4 months.

Matthew Qualls asked if there were any long-term risks for having this large array system such as chemical issues. Mr. Belknap stated that the know of no long-term risks. It is an electrical system that is no different than the distribution wires that run along just about everybody's street. The panels are non-toxic and are encapsulated. Lee Jay stated that this has been a question asked with some of the other projects that he has done. He stated that the earlier there were some chemical type stuff in them, but the new panels are very inert. Mr. Feldman asked if these panels were UL rated. Mr. Canavan said that they will be.

Anne Whitten asked if there was any high voltage in the area. If someone was to walk in there and touch something would it be an issue. Will they need to have signs up stating that they are high voltage if it is the case? Mr. Belknap stated that there will be electric code signage that will be required on the fence and on some of the equipment. One of the reasons for the chain link fence is for security but it is mostly for the National Electric Code. It is not extremely high voltage panel to panel, but it is high enough that this is electrical equipment that can be readily accessible. Outside the fence, there is higher voltage, but it is the connection to the distribution line just like what we have coming down the street.

Anne Whitten motioned to table this application until next available meeting after all paperwork has been submitted. David Ballard seconded the motion. VOTE: 5-0

### 3.2 Public Meeting

Cardinal Way Apartments, LLC

Burma Road (Map 022 Lot 094)

Request: Applicant proposes a Multi-family development consisting of two multi-family units each with 6 units. (Map 022 Lot 094)

Chairman Aleva asked Roger if he had any comments regarding this project. Roger stated that he would like the Board to set an escrow amount, a site walk and a Public Hearing. He gave the application to Lee Jay this morning and he provided an estimate. He also gave it to Underwood for review and they did get back to him. With this information, he estimated the amount for the escrow to be \$7,500.00.

Isaiah Plante from Kimball Survey and Design stated that he was here with Troy William from Cardinal Way Apartments, LLC to discuss the project. This project is for a 12-unit multi-family development in 2 buildings. The units would be accessed off of Burma Road with an approximately 300-foot-long road. They are providing 2 parking spaces per unit in the front of the buildings. There is an approximately 3,000 square foot wetland impact at the end of the road. This number may change a little bit depending on final grading. All of the units will be serviced by Town water and sewer. Ryan is coordinating with the Water and Sewer Districts. They are only proposing 12 units. It is a 4.27-acre parcel and is located in the Village Center Overlay Zone which allows 1 unit per every 2,500 sf.

Matthew Qualls said that he saw in the plans that they were talking about phasing. He wondered if they were going to indicate how many units were going to be phased in at a time. Mr. Plante stated that they can put something together showing this. He said that with the Growth Ordinance, they can only do 6 units per year so the first year they would do the first 6 units and do the following 6 the year after. Chairman Aleva stated that they should show how they are going to phase the project on the plans.

Anne Whitten stated that there were 2 emails from abutters, and they were both stating the same type of concerns. The concerns are regarding traffic and the speeding.

Chairman Aleva stated that they had one person from the public. He asked the Board if they wanted to allow them to speak. The Board agreed to allow them to.

Allen from 25 Church Avenue (Map 18 Lot 94A) stated that the biggest concern that he had was with traffic. He said that the area has been filled 6-8 feet over the years from a couple of companies. When this was done, it ruined the drainage. It used to be a little more marshland on that site that would drain out across Main Street. Now there is a lot of problems with drainage and moisture in people's basements. His other concern is that it is a large piece of land and from one of the buildings, people will be sitting on their deck watching him take a shower. His wife Carolyn asked what kind of housing it was going to be? Was it going to be subsidized? Troy Williams stated that it will not be subsidized. He wants to have nicely designed apartments that he will rent at a market rate. He is looking to add to the community.

Anne Whitten stated that she remembers hearing that the property had a different makeup in the past. Right now, there is nothing there that is considered wetlands. Chairman Aleva stated that there are some wetlands on the property. Mrs. Whitten asked about when they do the plan and have to do the stormwater runoff, if they find that it is wetter than they thought, does it get taken

care of when it happens. Chairman Aleva stated that they typically do some assessment about what the soils look like before they build to understand that. If the soils are poor, there are ways to treat that by excavating and bringing in gravel and making sure the items are trenched. Lee Jay stated that Underwood will also be looking into the project to verify what is there.

Chairman Aleva stated that they need to decide on a date for the site walk. The Board decided to do a site walk at 5:45 pm on 7/23/20.

Anne Whitten motioned to approve an escrow amount of \$7,500.00. Scott Strynar seconded the motion. VOTE: 5-0

Roger stated that they can initially have the Public Hearing on 8/13/20.

4. Other Business:

Roger stated that the other solar company Goldmark is starting to get some more momentum and should be coming back soon. He stated that Verizon will be coming to discuss putting in cell tower at top of this building. They will be here either on 7/25 or 8/13.

5. Adjournment:

Anne Whitten motioned to adjourn the meeting at 8:22 pm. Scott Strynar seconded the motion. VOTE: 5-0

Roger Frechette  
Planning Coordinator

Respectively submitted,  
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Jon Morse

Anne Whitten

Matthew Qualls

David Ballard

Scott Strynar

