

Approved 10/20/15

Town of North Andover
PLANNING BOARD-MEETING MINUTES

John Simons, Chairman
Lynne Rudnicki
Peter Boynton



David Kellogg
Lora McSherry
Regina Kean (Associate)

Tuesday September 1, 2015 @ 7 p.m. Town Hall, 120 Main Street, North Andover, MA 01845

1 Present: J. Simons, L. Rudnicki, L. McSherry, D. Kellogg, P. Boynton, R. Kean
2 Staff Present: K. Cheetham, B. Wolstromer, T. Urbelis, Town Counsel
3

4 J. Simons, Chairman: The planning board meeting for Tuesday, September 1, 2015 was called to order at 7 p.m.
5

6 **PUBLIC HEARING:**
7 602 Boxford Street Wellington Way (Map 105C Lot 22): Definitive Planned Residential Development (PRD)
8 Subdivision – Applicant seeks approval of subdivision for 7 single family homes along with Open Space.
9 Town Planner confirmed that all department heads have provided approvals of the project. The remaining issue
10 was the use (Trails) and ownership of the Open Space parcel.
11 The Board agreed to Condition the Open Space to be deeded either to the town or to the Commonwealth - Natural
12 Heritage.

13 **MOTION:** D. Kellogg made a motion to close the Public Hearing for 602 Boxford Street – Wellington Way
14 Subdivision and PRD Special Permit for Welling Way. L. Rudnicki seconded the motion. The vote was 5-0,
15 unanimous in favor.

16 The Board reviewed the DRAFT PRD Special Permit Decision and made substantive comments and
17 recommendations to the Planner.

18 **MOTION:** D. Kellogg made a motion to approve the Planned Residential Development Special Permit Decision
19 as amended providing the changes be made and circulated to the Board for final approval prior to filing. L.
20 Rudnicki seconded the motion. The vote was 5-0 unanimous in favor.

21 The Board reviewed the DRAFT Definitive Subdivision Plan Decision and made substantive comments and
22 recommendations to the Planner.

23 **MOTION:** L. McSherry made a motion to approve the Definitive Subdivision Plan as amended and subject to
24 circulation to the Board for final review prior to filing. L. Rudnicki seconded the motion. The vote was 5-0,
25 unanimous in favor.
26

27 [Continued Public Hearing]: 1600 Osgood Street: OSGOD Permit for Solar Project (Map 34 Lot 17) – Applicant
28 seeks approval for construction of a rooftop and parking canopy mounted solar photovoltaic system (6MW and/or
29 roughly 19,500 solar modules).

30 J. Simons: For the record, the applicant has just submitted a 22 page memo and cover letter this evening for the
31 Board’s review. (Correspondence RE: Application for Plan Approval to North Andover Planning Board 9/1/15)

32 M. Rosen, Attorney for the Applicant: Stated that the ZBA ruled favorably on five findings and have begun the
33 filing process. The Decision has not been filed yet.

34 J. Simons: If the Planning Board does not have the ZBA Decision how can we hear this? We do not have the
35 conditions and the outside consultants have not reviewed the Plans.

36 M. Rosen: Requested a determination as to whether the Planning Board will hear this as a Plan Approval or
37 Special Permit. The ZBA determined it to be a Plan Approval.

38 J. Simons: Nothing can be voted on this evening. This isn’t through the appeal process.

39 M. Rosen: Stated his opinion and referenced bylaw sections as to why this should be heard as a Plan Approval.
40 There are differences in the required vote (majority vs. super majority) and the required deadlines for opening
41 hearings and filing decisions for Plan Approval vs. Special Permits. In advance of this hearing we issued an
42 extension to September 16th and in it we indicated we would discuss tonight the need for a further extension if the
43 Board felt it was appropriate. We are happy to go beyond the 16th but we need to understand what we are doing it
44 because the clocks differ. We’re beyond the Plan Approval 120 days. At the June hearing we were 90 days in, at

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45 that hearing we discussed waiting until the Zoning Board issued a Decision. The right to connect to solar is limited
46 under state law. There's a queue and if you don't meet deadlines, you lose your place which could be permanent
47 depending what the state does with solar requirements and net metering credits. We recognize this Board needs
48 time to deliberate and review the materials submitted.

49 J. Simons: We apply a fair standard to all applicants. These circumstances are unusual and we want to protect the
50 Town's interest, comply with the law and do our job effectively. I would prefer to consult with Counsel. We
51 haven't had the chance to read the ZBA decision. We'd like our peer review consultant to be involved. We can't
52 do that by next meeting without updated plans and the ZBA decision.

53 Board: General consensus was that two weeks is not enough to review the project and complete the peer review.

54 J. Simons: What are the kinds of things that we need to do in order to render a decision; legal and procedural?

55 D. Leary: To get on the waiting list we don't need to have a fully vetted project; we need to know it can be built,
56 but some of these milestones need to happen really fast.

57 L. McSherry: When the legislature goes back in and they vote on this, is it immediately funded?

58 D. Leary: We sign an interconnection with National Grid and maybe the Town of North Andover signs on to be a
59 host of the project, becoming a private partnership. It's not our group that applies for the net metering cap it's the
60 town of North Andover who can apply for up to 10 MW of capacity. The town does not have to do it.

61 M. Rosen: The host doesn't have to be the town in which the solar array is built. The town decides to host and then
62 the Town Manager has to check a box saying, "non-ministerial permits and approvals have been granted", but
63 "ministerial permits and approvals can still remain". The town is waiting for this Planning Board to tell the town
64 that they are allowing the use.

65 D. Kellogg: Requested information on how long the time period is before a permit would expire if it was not acted
66 upon and expressed concern that if during that time the Town was locked into this something more attractive
67 comes along or the State cuts back on funding.

68 M. Rosen: I will obtain an answer on that for you as to how long this type of approval will be outstanding.

69 L. Rudnicki: Commented that the application on file, dated March 20, 2015, has 1600 Osgood LLC as the property
70 owner and Ellen Keller is not listed as an agent for Osgood Solar.

71 M. Rosen: She's the executive VP of Osgood Solar. The applicant is Osgood Solar, LLC. The property owner is
72 1600 Osgood Street, LLC.

73 L. Rudnicki: We might need Town Counsel's opinion on the original application if it is correct because if the
74 owner did not sign off on the project, it's not before us.

75 L. McSherry: I'm unclear as to the difference between the two reviews and where we're regarding time?

76 J. Simons: If this came to the PB for the first time, we'd have a clear cut, unambiguous plan to send to our outside
77 consultant. There are a lot of things still open. Under normal circumstances if we had a complete application and
78 there was no legal issue, we'd probably go to the end of October. It would take 3-4 meetings to vote.

79 M. Rosen: My client isn't willing to go to the end of October.

80 J. Simons: I want to get the pressure off of time and perhaps we go to the first meeting of October and make it
81 Friday the end of that week, we'll have talked to Counsel and then decide at the next meeting if we need to go to
82 the following meeting.

83 M. Rosen: Requested an opportunity to identify significant issues and commence peer review of the plans vs.
84 waiting until after your review of the ZBA's decision.

85 J. Simons: Don't conclude this is a full set of our comments tonight.

86 [Dan Leary presented solar project design] noting local installations: Endicott College, Danversport Yacht Club,
87 Boston Properties, etc. (M. Rosen displayed Boston University's Business magazine article to Board: "Millenials
88 Want To Make An Impact Not Just Money")

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- 89 J. Simons: What's the largest scale of the projects you noted? What's the largest single solar installation in state?
90 D. Leary- Endicott College is 2.5 MW. Most municipal projects are 6 MW in size. Names of those sites will be
91 provided to the Board. We return tonight with updated plans because originally we were proposing to build on the
92 Business Zone and the Mixed-Use zone. There are three zones to the OSGOD: (Red) Residential, (Green) Mixed
93 Use and the (Blue) Business Opportunity zone. We propose to build 6 MW within the Business Opportunity
94 Zone, and based on the ZBA findings, we removed the Mixed Use zone. We are proposing two types of solar
95 installations, 1/3 on the roof and 2/3 is carport canopies.
96 P. Boynton: How do you clear the snow off the canopies without damaging the panels?
97 D. Leary: You either let the snow melt or actively remove the snow. Roof rakes won't damage the panels.
98 P. Boynton: If North Andover hosts is the town responsible for clearing the snow off these canopies efficiently?
99 D. Leary: There is no cost to the town. This is privately owned, constructed and maintained. The agreement
100 assumes the weather.
101 T. Urbelis, Town Counsel: Cautioned that the applicant is assuming that North Andover is going to be a host in
102 these answers. You have to make a very distinct difference between if North Andover is not the host. North
103 Andover may have a net metering agreement which is one thing, but that's totally different from being a host.
104 You need to clarify those two distinctions.
105 D. Leary: North Andover does not need to host this project. Any municipality in the northeast region of National
106 Grid can host the project. North Andover could potentially get the benefit of Payment in Lieu of Taxes (PILOT)
107 revenues and building permit revenues.
108 R. Kean: It seems logical that if our town would host that we'd gain the benefit from it?
109 D. Leary: A host is whoever is going to have the benefit of the net meter that will be installed at the site. North
110 Andover is not currently hosting other projects, so North Andover is eligible.
111 J. Simons: What's the size of the footprint of what's on the ground and on the roof?
112 D. Leary: Each module has approx. 20 sq. ft. of space. There are 19,000 modules in this project (1/3 on the roof,
113 2/3 as ground canopies, (+/-8.7 acres or approx. 450K sq. ft. total)
114 L. McSherry: Are there any health issues associated with solar?
115 L. Rudnicki: Migratory birds are attracted to the heat emitted from the solar installation. They fly directly into the
116 heat of the panels and expire.
117 D. Leary: That is a different type of concentrated solar technology located in desert areas of the country.
118 L. McSherry: Are the panels visible on the roof?
119 D. Leary: No, they are disguised by the existing parapet.
120 J. Simons: How does the power get into the grid?
121 D. Leary: It is distributed through inverters that are freestanding; the size of refrigerators that sit on a concrete pad.
122 There are 14 of them. The units servicing the roof are inside the building.
123 M. Rosen: In summary, the Board needs answers on: the height and look of the carports and the roof panels, the
124 building parapet, an inverter photo, the acreage of the space under the red lined areas, we need to confirm with
125 Town Counsel as to whether we need to do anything to Osgood Street LLC and the duration to which Plan
126 Approval can be conditioned so we're not having the same discussion 20 years from now.
127 D. Kellogg: What happens if the laws should change so that the project isn't economical anymore? What happens
128 to the equipment, does it continue to run? Suppose they were to cut the refund rate to the municipality? M. Rosen:
129 You enter into a contract and sell under agreement for a negotiated 15-25 year term. It sets the formula for the
130 price which varies as the G1 rate varies.

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131 L. Rudnicki: The parking lot is unsound. You'll be adding significant load during construction, scraping off snow
132 with bobcats versus plows, bringing construction equipment in, weight of the new canopies, etc. What are you
133 going to do about the parking lot? How much do these 19,000 units weigh?

134 P. Boynton: Where are local carport sites that are relative in size and area to this one that we can look at, i.e. 9
135 acres worth of panels over a larger lot, with similar kilowatts?

136 R. Kean: This parking lot is where snow is currently dumped. Where does the snow get dumped in this
137 circumstance?

138 M. Rosen: We will extend the deadline to file a written decision to the 13th of October. Can we confirm that
139 tonight is the opening of the public hearing? Can we discuss the ZBA's decision at the next meeting?

140 J. Simons: We'll check into it. We are willing to extend the time to render a decision based on your submission, to
141 October 13th and we'll place you on the next two meeting agendas.

142 **MOTION**: D. Kellogg made a motion to accept the written extension until September 16, 2015. The motion was
143 seconded by P. Boynton. The vote was 5-0, unanimous in favor.

144 **MOTION**: P. Boynton made a motion to grant a further extension to October 13, 2015 contingent upon receiving
145 the request in writing. The motion was seconded by L. McSherry. The vote was 5-0, unanimous in favor.

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147 **DISCUSSIONS:**

148 • Water Quality Research - P. Boynton reported the data is coming together for the upcoming presentation.

149 • 777 Great Pond Road Letter - The Board agreed the location is proximate to a wetland and best
150 management practices are required. The Town Planner is to notify the applicant to come before the Board
151 for an informal review.

152 • 231 Sutton Street- Town Planner reviewed a request to replace siding and windows at this location. It
153 needs to be determined if there is an existing Site Plan Review Notice of Decision for this property that
154 conditions the exterior appearance to determine if a Modification is required..

155 **MINUTES APPROVAL**

156 Approval of outstanding meeting minutes from July 7, 2015, July 21, 2015 & August 18, 2015 meetings.

157 (Minutes were not addressed)

158

159 **ADJOURNMENT**

160 **MOTION**: P. Boynton made a motion to adjourn the meeting. The motion was seconded by L. Rudnicki. The
161 vote was 5-0, unanimous in favor. Meeting adjourned 10:15 p.m.

162

163 **MEETING MATERIALS:**

164 Administrative: September 1 DRAFT Agenda; DRAFT July 7, 2015 Planning Board Meeting minutes revised,
165 July 21, 2015 Planning Board Meeting minutes, August 18, 2015 Planning Board Meeting minutes (2), Staff
166 Memo August 28, 2015; 231 Sutton St: 231 Sutton Street Aerial; 777 Great Pond Road: 777 Aerial, 777 Great
167 Pond Letter, 777 Zoning Map; 602 Boxford Street: Boxford Street water line extension plan, Conservation
168 Comments 8-31-15, Definitive PRD review #3 08_28_15, Definitive Template, Department Comments, G Willis
169 Final OK, GW Final Review, PRD SP Template, Zoning Map of Parcel; 1600 Osgood Street - OSGOD Solar:
170 1600 Osgood 150324 G. Brown determination, 1600 Osgood G. Brown response email, 1600 Osgood Narrative,
171 1600 OSGOD Application, 1600 Osgood Plan Approval Plan Set, Application for Plan Approval 9.1.15,
172 Continuance 9-16-15, Continuance 9-2-15, Manzi Letter, Memo to Planning re Osgood Solar, Message from
173 CommDev-Ricoh, OSGOD Permit Review Checklist, Osgood Solar revised OSGOD Plans, PowerPoint Solar 2,
174 RE 1600 Osgood Solar Extension, Rosen Letter 9-1-15, Solar Impact Ltr, ZBA Legal Notice; L. Rudnicki
175 Watershed Diagram