

Town of North Andover
PLANNING BOARD

Approved 2-2-16

John Simons, Chairman
Lynne Rudnicki
Peter Boynton



David Kellogg
Lora McSherry
Regina Kean (Associate)

Tuesday January 19, 2016 @ 7 p.m. School Administration Building 566 Main Street, North Andover, MA 01845

1 Present: J. Simons, L. Rudnicki, D. Kellogg, P. Boynton, R. Kean

2 Absent: L. McSherry

3 Staff Present: J. Enright, B. Wolstromer

5 J. Simons, Chairman: The Planning Board meeting for Tuesday, January 19, 2016 was called to order at 7 p.m.

7 **PUBLIC HEARINGS:**

8 Continued: 1812 Turnpike Street, George Atallah (C&C Auto Corp): Applicant seeks a Site Plan Review Special
9 Permit in order to raze an existing building and construct a 1 ½ story, 5,000 +/- SF building for an automobile
10 repair facility with an attached pizza/sub restaurant. The existing parking areas are to remain and additional areas
11 to be added. The proposed project is within the General Business Zoning District (GB).

12 [Continued to February 2, 2016]

14 Continued: 1665 Great Pond Road, Technical Training Foundation Trust: Applicant seeks a Watershed Special
15 Permit to demolish existing single family dwelling and construction of a new single family dwelling with
16 improvements to existing driveway and connection to existing utility services within the Residential 1 Zoning
17 District. Portions of the work are within the Non-Disturbance Buffer Zone of Lake Cochichewick.

18 [Continued to March 1, 2016]

20 New: 101 - 115 Sutton Hill Road, TKZ, LLC: Application for a proposed 4-lot Definitive Subdivision Plan with
21 associated site grading, driveways and connections to town water and sewer to be located at 115 Sutton Hill Road.
22 Two of the four lots contain an existing home.

23 J. Enright: There are two existing homes. One will remain as is. It is still being determined whether the other is
24 be razed or renovated. An ANR was recently approved for 115 Sutton Hill Road. The ANR created two lots, one
25 of which was identified as unbuildable. This subdivision plan proposed to combine the unbuildable portion with
26 the land of 101 Sutton Hill Road to form a 4-lot subdivision. Tom Zahoruiko is here to present a Proof Plan and a
27 proposed Site Development Plan.

28 T. Zahoruiko: Presented conceptual alternatives, a Proof Plan, and proposed Site Development Plan. Discussed
29 review comments submitted by DPW, Police Department, Eggleston Environmental and the Fire Department.

30 Board: General discussion regarding proposed frontage, driveway access, tandem curb cuts, and residential
31 sprinkler system requirements.

32 L. Rudnicki: How long is the driveway to Lot 2 and how wide is it?

33 T. Zahoruiko: NFPA 1 is evolving. Currently if a driveway is longer than 50 ft. you have to a 20' wide access way
34 or install a sprinkler system. The driveway for Lot 2 is about a 190 ft. long. I would propose to not pave it any
35 wider than 10-12 ft. and widen the apron with gravel on either side for fire vehicles. The alternative is to install
36 sprinklers.

37 L. Rudnicki: If we are to grant a waiver for the subdivision cul-de-sac, we can't leave the issue open. We have to
38 make a decision as a Board.

39 T. Zahoruiko: NFPA 1 is demanding and is part of our code which requires us to do one or the other. We will
40 comply.

41 L. Rudnicki: We need to know this information when you submit plans. The width of the driveways have to be
42 shown on the plans.

43 J. Simons: We will keep an open mind and examine how your current driveway works.

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- 44 Mark Bohrer, 10 Heath Circle: I live on the downhill side of the houses to the right. Out of that hill there is a
45 spring that flows across Heath Circle and down the hill. Are you aware that a spring exists on the downhill side of
46 the site and what will be done to address that?
- 47 T. Zahoruiko: Addressed the measures that will be taken to mitigate impact. Underground storage systems for each
48 of the homes will be installed. They are designed to store 100 year storm waters that percolate back into the soils.
49 We have to prove that we aren't going to increase the amount of runoff beyond this site. Homes will be placed
50 accordingly.
- 51 Jim Pannos, 85 Sutton Hill Road: Asked whether the 41ft. setback could be moved forward to allow for privacy?
- 52 T. Zahoruiko: The setbacks will be compliant with zoning and I understand the concern for privacy. We plan to
53 place an evergreen screen between the two properties. The Board may want to comment on that because I have
54 placed it outside the watershed. Moving it will place the structure closer to the Watershed Protection District.
- 55 J. Simons: As long as the drainage works that's fine.
- 56 L. Rudnicki: It's well outside the 400 ft.
- 57 T. Zahoruiko: We will make that adjustment on the plan.
- 58 J. Pannos: Tell me about the water containment areas? Will they attract insects and mosquitos?
- 59 T. Zahoruiko: We originally proposed shallow infiltration areas and after hearing comments and neighbor
60 concerns I decided to bring the stormwater management closer to the homes and underground storage systems.
- 61 Arthur Bray, 55 Heath Road, Abutter: I would like to second the proposal to move the house up; that would be
62 great. You answered my drainage concerns. Are the basements to the homes going to be raised up to avoid water
63 tables? Any screen on the rear of the lot would be appreciated.
- 64 T. Zahoruiko: We have to acknowledge the groundwater conditions and we try to strike a balance; we prefer to
65 keep them close to the ground, but we have to avoid problem areas. If we have to raise something up, i.e. 2 ft. –
66 (showed photo of TKZ, LLC Milk St. home) we'd devise a stone wall with a granite cap detail.
- 67 [Cont'd to next hearing]
- 68
- 69 Continued: 2302 Turnpike Street-Earthworks, Inc., Danny Gill: Applicant seeks a Site Plan Review Special Permit
70 in order to develop the property as a mixed-use retail and business office commercial complex with accessory
71 indoor storage and parking within the Business 2 Zoning District (B-2).
- 72 J. Enright: This hearing opened at the Dec. 15th meeting. They continued this last meeting with no evidence heard.
73 There was a question with regard to the primary use v. the accessory use. Per your request, I consulted with Town
74 Counsel and G. Brown, Building Commissioner. Town Counsel said the bylaw doesn't provide a precise
75 description of the numerical calculation as to the primary and accessory uses. Atty. Urbelis reviewed Mr. Brown's
76 determination and defers to him as the zoning enforcement officer, but believes his determination is not capricious,
77 arbitrary, or without basis. G. Brown confirmed his original opinion that the retail and office as the primary use
78 and storage and parking as accessory is allowed.
- 79 J. Simons: Not sure I agree with that but okay.
- 80 J. Enright: Lisa Eggleston has provided a preliminary review, the applicant is responding to that review, DEP,
81 Conservation and DPW have commented and the project is under review by Conservation Commission.
- 82 J. Mann: Provided an overview of the project adding the structures are being kept out of the 50ft setback. Two
83 vehicular entrances will be placed off of Sharpners Pond Road. The property is currently on septic and the intent is
84 to connect to town sewer and water without interfering with 114. The building materials are metal panels, glass,
85 wood and stone accents.
- 86 J. Simons: Are those faux windows or real? Did you have an architect? We would like to see some of your
87 proposed materials at the next meeting, and some photos of buildings constructed with similar materials.

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- 88 J. Mann: They are real glass windows and yes we have an architect who has stamped the plans.
89 P. Boynton: What percentage of the building section facing RT. 114 is gray? What is the percentage of the
90 building facing Sharpners Pond Road is gray?
91 J. Mann: Approximately 50% of the building elevation along 114 & approx.75% along Sharpners Pond Road.
92 Board: General discussion around the amount of non-descript gray surface and the preference to soften the gray
93 portion to make it appear less industrial looking as it is primarily a retail use.
94 L. Rudnicki: The entries- one is directly across from the daycare; they line up and I think that may be an issue?
95 Are you having a designated in/out? That intersection is very difficult to exit from. Vehicles wait there.
96 Chris Sparages, P.E.: Both entries will be two ways in/out. The entries are off set.
97 L. Rudnicki: The dumpster pad is in the 100 ft.
98 C. Sparages: We can look at that. L. Eggleston made no comment regarding that nor did Con Comm. It'll be
99 enclosed.
100 L. Rudnicki: The fieldstone wall you mentioned at the last meeting, where is it, how high and how long is it?
101 C. Sparages: It is reflected on the landscape plan along 114 as being about 2' high x 25-28 ft. long. It has no
102 structural quality and is not a retaining feature it is strictly decorative.
103 D. Kellogg: How much fill are you adding?
104 C. Sparages: There will be quite a bit if fill probably about 10 ft. of fill to lift the grade up to the rear of the site.
105 [Cont'd to next hearing]
106
107 **DISCUSSIONS:**
108 575 Osgood Street, Edgewood Retirement Community, Bob Coppola: Small House Warrant Article discussion.
109 J. Enright: This is a warrant article discussion. We are focusing on language. We have abutters here and B.
110 Coppola will review the conceptual plans for discussion purposes only. This requires a warrant article at Town
111 Meeting and a town vote.
112 B. Coppola: This is a "small home project" with 4 pods dispersed amongst two buildings, 10 beds per pod and
113 related spaces, i.e. kitchen, admin., activity areas. It is considered an assisted living piece and we are working with
114 the state to determine whether it is considered an "enhanced living" facility, it is not a skilled nursing facility. We
115 believe it will be licensed through the state. There are no kitchens in the rooms. Rooms contain a bedroom &
116 bath. Cooking is done by Edgewood staff in a home setting for 10 residents. The intent is to draw residents out of
117 their rooms and into small group settings.
118 J. Enright: Presented the locus showing the location of the pre-school.
119 Barbara Hartrick, Board member, Family Co Op Preschool: As an abutter, will we be getting communications?
120 J. Enright: If the proposal is to proceed as a warrant article abutter notification is not required; however, it is the
121 Board's discretion. Typically for a project like this we have notified abutters.
122 J. Simons: If approved at Town meeting, the applicant would have a Public Hearing in front of the Planning
123 Board; there's two hearings; one to view the zoning article to allow it and one before the Planning Board to review
124 the specific application. Under the existing zoning, (the Continuing Care Retirement Center) two features have to
125 change (1) is to increase the number of total units to be built on the property from 250-300, (2) to allow the
126 applicant to place those units in the R1 portion of the property subject to the limitation that it is only 10 % of the
127 total R1 land area. The applicant is working with us and we want to make the new buildings as attractive as
128 possible.
129 J. Enright: Any thoughts on warrant language?
130 J. Simons: From my perspective, it doesn't drastically change; it allows R1 to a limited scale. I'd like to study this
131 more. This should be a Planning Board article.

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132 P. Hedstrom: The issue of identifying any increase in terms of type of housing can be accomplished in the
133 Decision/Special Permit. Identifying it in your Decision would avoid any rezoning language limiting certain types
134 of housing.
135 [Continued]

136
137 1679 Osgood Street, Chad Lawlor: Discussion on options for adding landscaping as a Permitted Use within the
138 Corridor Development District 3 (CDD3).

139 J. Enright: Presented several draft revisions for the CDD3 zoning district. The Board deliberated on the
140 alternatives and decided to discuss the language further at the next meeting. The consensus of the Board was that
141 they would likely support it by Special Permit. Jean will craft the language as a warrant article.

142
143 Woodland Estates, Oxbow/Colonial Subdivision

144 J. Enright: Located off Rte. 114, this subdivision was approved in the late 1990's. The developer has passed away
145 and we have interest in trying to close out the project. The PRD has Open Space parcels that were never conveyed
146 to the town, non-profit, or Conservation Commission. Due to interest, this bond has grown from approximately
147 \$12K to \$31K. The remaining bond for the Planning department is the street acceptance piece. Conservation has
148 over \$100K in bond money. The Town Manager requested Town Counsel research the file and determine the
149 status of ownership of the Open Space and the roadway. I'm seeking approval to (1) to allow the Treasurer's office
150 to consult with the Tax Title attorney to foreclose on the Open Space parcels so the town can gain ownership and
151 (2) to allow Conservation and myself to work with Town Counsel to give notice to the parties of interest that the
152 work must be completed by a certain date or we would proceed to seize the bond and move toward street
153 acceptance. We have the street layout plan. Tim Willet thinks we can work with the recorded plans street
154 acceptance.

155 MOTION: D. Kellogg made a motion to direct the interim Planner move forward on the two items. P. Boynton
156 seconded the motion. The vote was 4-0 unanimous in favor.

157
158 MISCELLANEOUS CORRESPONDENCE:

159 J. Enright: You received miscellaneous correspondence related to the establishment of the OSGOD Committee
160 submitted by the chair of the ZBA. Subsequent to that, the ZBA has named Ellen McIntyre as their representative
161 to the OSGOD Committee.

162
163 CONSENT ITEM

164 Open Meeting Law Complaint, Osgood Solar LLC, 1600 Osgood Street.

165 J. Simons: A complaint alleging an Open Meeting Law violation has been filed by 1600 Osgood Solar, LLC which
166 is the applicant for Site Plan approval of a 6 megawatt solar facility at 1600 Osgood Street. In essence the
167 complaint alleges that the Board did not follow the Open Meeting Law when it issued Site Plan approval with
168 conditions on November 23, 2015 because the Board allegedly did not properly deliberate upon or properly issue
169 the written decision.

170 The Attorney General's Office enforces the Open Meeting Law. On behalf of the Board, Eric Kfoury wrote to the
171 Attorney General and informed her office that the Board would be meeting tonight to discuss the Open Meeting
172 Law complaint and possibly vote tonight to confirm the November 23, 2015 decision. I do not believe this Board
173 violated the Open Meeting Law.

174 Nevertheless, Town Counsel advises that if the Board, in open session, agrees that its November 23, 2015 decision
175 was proper and agrees with the conditions as stated in the decision, then the Board should vote to confirm the

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176 November 23, 2015 Site Plan approval with conditions and then the Attorney General would be advised
177 accordingly.
178 For your information, General Laws Chapter 30A, Section 23(b), which is part of the Open Meeting Law, states in
179 part: "Any remedial action taken by the public body in response to a complaint under the subsection shall not be
180 admissible as evidence against the public body that a violation occurred in any later administrative or judicial
181 proceeding relating to such alleged violation."
182 Therefore, I will open it up to discussion by the Board as to whether you agree with the November 23, 2015
183 decision and all of its conditions and whether someone wants to make a motion to confirm that decision.
184 **MOTION:** L. Rudnicki made a motion to confirm the November 23, 2015 decision granting site plan approval
185 with conditions for a 6 MW solar facility at 1600 Osgood St. D. Kellogg seconded the motion. The vote was 4-0,
186 unanimous in favor.

187
188 **MINUTES APPROVAL**

189 **MOTION:** D. Kellogg made a motion to approve the January 5 minutes, as amended. P. Boynton seconded the
190 motion. The vote was 5-0, unanimous in favor.

191
192 **EXECUTIVE SESSION: (9:15)**

193 Executive Session to discuss litigation filed by 1600 Osgood Solar, LLC.

194 **MOTION:** L. Rudnicki made a motion to go into Executive Session for a consultation with Town Counsel for
195 confidential legal advice and to discuss litigation in the case of 1600 Osgood Solar LLC v. North Andover
196 Planning Board. The Chair declared that an open meeting would be detrimental to the Town's litigation strategy
197 and we will not return to Open Session. D. Kellogg seconded the motion.

198 **Roll Call Vote:** Regina Kean voted to go into Executive Session. Lynne Rudnicki voted to go into Executive
199 Session. David Kellogg voted to go into Executive Session. Peter Boynton voted to go into Executive Session.
200 John Simons voted to go into Executive Session.

201
202 **ADJOURNMENT**

203 **MOTION:** L. Rudnicki made a motion to adjourn the meeting. The motion was seconded by P. Boynton. The
204 vote was 5-0, unanimous in favor. Meeting adjourned @ 9:47 p.m.

205
206 **MEETING MATERIALS:** Planning Board Meeting Agenda January 19, 2016; DRAFT Planning Board Minutes
207 January 5, 2016; 101+ 115 Sutton Hill Road: 115 Sutton Hill Road Application Capstone, ANR PLAN, Cover1,
208 Eggleston Review Letter 1 101-115 Sutton Hill Road Capstone, Existing Conditions, Fire Dept. Comment, Locus,
209 PD Comments, Proof, Site Construction, Willis-Willett Review Comments; 575 Edgewood: 151221 Edgewood-
210 Proposed Site Plan, 160119 Draft Warrant Article, Locus, Plan of Pond Pasture 1959; 1600 Osgood Solar: 1600
211 Osgood 151123 Notice of Decision, 1600 Osgood OML Complaint Process, 1600 Osgood OPEN MEETING
212 LAW COMPLAINT OSGOOD SOLAR LLC V NA PLANNING BOARD, 1600 Rosen AGO response Letter,
213 Kfoury AGO OML extension request granted, Kfoury AGO OML Response follow up, Kfoury AGO OML
214 Response letter, Kfoury AGO OML extension request granted, Kfoury AGO OML Response follow-up, Town
215 Mgr. Response to Manzi letter, Manzi Response to Town Mgr. letter re: Osgood Committee, OML Complaint
216 Narrative, Executive Session Motion; 1665 Great Pond Road: 1665 Continuance Request; 1679 Osgood Street:
217 Draft Article language Alternative 1, Draft Article language Alternative 2, Draft Article language Applicant,
218 Locus, Section 16 Corridor Development District-entire section; 1812 Turnpike: 1812 Barn Style Elevations with
219 people (12-23-15), 1812 Existing and Proposed Site Layout, 1812 Turnpike SITE PLAN FULL SET, Conceptual

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- 220 Building Site Sketch, Eggleston Review Letter #1 1812 Turnpike St. review, elevations w-brick-GRAY (BACK-
- 221 REAR), elevations w-brick-GRAY (FRONT-SIDE), REV 1812 Turnpike UTILITY update (11-25-15), 20160119
- 222 Continuance Request; 2302 Turnpike St: Architectural Plans, Division of Fisheries & Wildlife_08-
- 223 2429_12182015, Eggleston 2302 Turnpike St Earth Works review letter #1, G. Brown Use Determination, MA
- 224 DEP Comments, Site Plan turnpike (151104), Stormwater Preliminary Response, T. Willett Comments; Woodland
- 225 Estates Subdivision: Woodland Estates Subdivision Town Counsel Letter.
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