**MINUTES OF MEETING OF WAREHAM PLANNING BOARD**

**Date of Meeting: September 11, 2017**

1. **CALL MEETING TO ORDER**

The meeting was called to order at 7:00 P.M.

1. **ROLL CALL**

Members present: George Barrett

Mike Fitzgerald

Emmanuel Daskalakis

Mike Baptiste

Marc Bianco

Alan Slavin, BOS Liaison

Also present: Ken Buckland, Town Planner

Charles Rowley, Town Review Engineer

1. **PRELIMINARY BUSINESS**
2. **Meeting Minutes:**

* **August 28, 2017**

Mr. Deskalaskis states on the third page it is written that he had asked if the buildings could be turned 90 degrees; Mr. Deskalaskis states it should read that he asked if the small building could be turned 90 degrees.

**MOTION: Mr. Daskalakis moves to accept the minutes as corrected. Mr. Fitzgerald seconds.**

**VOTE: (3-0-2)**

* **Executive Session Minutes: February 23, 2016, March 28, 2016, April 27, 2016**

**MOTION: Mr. Barrett moves to accept the executive session minutes of February 23, 2016 as written. Mr. Fitzgerald seconds.**

**VOTE: (2-3-0)**

**MOTION: Mr. Baptiste moves to accept the executive session minutes of March 28, 2016 as written. Mr. Fitzgerald seconds.**

**VOTE: (3-2-0)**

**MOTION: Mr. Baptiste moves to accept the executive session minutes of April 27, 2016 as written. Mr. Fitzgerald seconds.**

**VOTE: (3-2-0)**

1. **PUBLIC HEARINGS**
2. **Town Meeting Articles: Recodification and Technical Amendments to Zoning By-Laws.**

There is a recodification, re-numbering, and technical amendment of the Zoning By-Law. There were By-Law changes that were previously approved and never updated in the By-Law which have been added to this draft of the By-Law.

Mr. Buckland shows the By-Law on a projector and reviews the changes of the draft By-Law with the Board.

Blanks in the Use Table have been interpreted as a prohibited use. The draft has changed all blank spaces to a “no” in the Use Table.

Mr. Slavin also discusses the removal of drive-thru from the By-Law and the difficulties this presents.

Mr. Barrett states he believes that “Drive-Thru” had been replaced with “Drive-In” at one point.

Mr. Buckland notes that Mr. Rowley had done an immense amount of research and helped to provide years of By-Law changes for the history section of the By-Law.

Mr. Rowley asked if the uses could be alphabetized.

Mr. Buckland notes there is a reference in the By-Law to the “District Design Review Committee” which does not exist. Mr. Buckland recommends changing this to the reviewing board or the permitting authority. The Board discusses creating a District Design Review Committee for next Town Meeting.

Present before the Board: Richard Serkey, attorney

Mr. Serkey states that issues that were a concern with the Zoning Study Committee were that the Building Commissioners focus on pre-existing non-conforming lots and pre-existing non-conforming uses take up a large amount of time, and make up a lot of the applications before the Zoning Board. Mr. Serkey recommends looking to clarify this for future Town Meetings. Mr. Serkey states he had also recommended that with respect to site plan approval there is mixed language that talks about Site Plan and Special Permit, which is largely different as they require different votes and the language should be clarified and not combined. There is an effort to make the Special Permit authority and the Site Plan approval authority the same.

Mr. Buckland states that originally with the Site Plan Review By-Law there were two different levels of Site Plan and that merged into one Site Plan process and it became unclear as to what was Site Plan Review and what was Special Permit.

Mr. Buckland states he can check on the licenses for kennels, table notes, spelling errors, and in the requirements for filing plans that the contours be expanded to include 2’ or better on the topography grading to review for this Town Meeting.

Mr. Barrett feels it will be difficult to determine when the more detailed gradient will be required and when it will not be. Mr. Buckland states that as the permitting authority they may ask for more information if required, if it is a Special Permit. Mr. Daskalaskis states it would be crucial for the applicant to know ahead of time what the contour intervals are because the surveying is affected and requiring different contours would be a large cost of the applicant to send out the surveyor again. Mr. Buckland states it could be determined in the pre-application review what the contours will be required to be. Mr. Baptiste suggests putting this as part of the requirement for plan submittal so there can be no debate between the Board and the applicant.

The Board shifts their focus to the Solar By-Law.

Mr. Barrett asks if the canopy mounted solar panels are being treated the same as ground mounted solar farms. Mr. Buckland says they are.

Mr. Barrett states he would say industrial and institutional zones should not be allowed to have the canopies. Mr. Bianco asks if these would affect the watershed. Mr. Rowley states not if it is on an already impervious area. Mr. Barrett states it wouldn’t affect the watershed either way.

Mr. Buckland states the Use Tables need to be modified for large mount solar facilities and on-site solar. The regulations themselves are added to Article 5 of the By-Law which includes the standards and requirements for the solar construction.

Mr. Daskalakis asks what on-site solar is limited by. Mr. Buckland states the setbacks and dimensional standards for the zone as well as supplemental regulations apply to the solar facilities. Article 7 applies to solar facilities as well.

Mr. Fitzgerald believes that no solar facilities should be placed in front of a primary structure and asks if that could be added to the proposed By-Law.

Mr. Fitzgerald feels the Solar isn’t being held to enough of a design standard. Mr. Buckland notes that as it is there is no standard in the By-Law.

Mr. Daskalakis states that he feels this has not been studied enough to produce an effective by-law. Mr. Bianco states that as it is right now there are no guidelines.

Present before the Board: Richard Serkey, Attorney

Eric Lopez

Marc Silvia

Mr. Serkey states he is with Blue Wave Capitol which is proposing a large ground mounted facility in Wareham. Mr. Serkey states he is concerned with the table for solar uses. Under this table large ground mounted solar facilities are restricted in all zoning districts unless they are granted a Use Variances. Mr. Serkey is aware the concern is the proximity of solar farms to homes, and feels this would be better served to have buffers and setbacks for these projects. Mr. Serkey feels that restricting solar arrays to other districts would not be the best use in each district, such as commercial. Mr. Serkey also asks if solar will be prohibited in the BDOD since it is overlaying a residential district. Mr. Serkey feels the “no” or “yes” in the Use Table is not effective in deciding where solar uses should be allowed. Mr. Serkey says state law prohibits unreasonable regulations on solar except to protect the public health, safety, or welfare. Mr. Serkey says there is case law that suggests if the Town sets aside certain areas for solar and prohibits the use in other districts may be allowable under the state regulation. However, Mr. Serkey states he feels the effect of the table would be to prohibit large ground mounted solar altogether.

Mr. Serkey also states that the By-Law must be approved by the Attorney General, and that the By-Law may not be approved if the areas allowed are unlikely to see solar use.

Mr. Serkey also states that the Town gains significant revenue from pilot agreements from solar facilities and there are minimal municipal services required for solar facilities.

Mr. Serkey feels setbacks and screening requirements are the best way to protect homeowners from the solar arrays, not prohibition.

Mr. Serkey also states in the Design Standards Section 594.3 under item 6 it states that clear cutting of trees and natural vegetation within 5 years shall be prohibited for the construction, operation, and maintenance of the solar photovoltaic facility. Mr. Serkey states no one likes to see the unnecessary removal of trees, but this would essentially limit the ability of any solar field to be placed on a lot that would require clearing.

Mr. Bianco asks Mr. Serkey if he has a suggested setback. Mr. Serkey said that is very difficult to answer directly.

Mr. Fitzgerald asks how the number of solar arrays in Wareham compares to other Towns.

Mr. Lopez states there are around 72,000 solar installations in the state. Mr. Lopez states the percentage of solar arrays in Wareham is minimal. Mr. Lopez states their company tries to work with the communities to have satisfied customers in order to build a lasting business.

Mr. Fitzgerald speaks out against solar facilities and would like to know what the benefit is for the Town. Mr. Lopez states that solar facilities are temporary and the land can then be used for other uses. Mr. Fitzgerald is concerned with the displacement of animals. Mr. Lopez states that the rules of Natural Heritage are extremely strict and followed across the state. Mr. Lopez also states there are financial benefits to the Town. Landowners benefit from the rent of land in which land is generally not utilized. The municipality then benefits from the property taxes.

Mr. Daskalakis asks if Mr. Lopez could give suggestions regarding the solar by-law. Mr. Lopez stated he didn’t have any recommendations prepared for this evening but could come back with some suggestions.

Mr. Fitzgerald states he feels that the solar arrays should be 200’ from the property lines, that 50’ setbacks are not adequate.

Discussion ensued regarding size requirements for large solar as well as solar that is not large scale and property values.

Mr. Serkey recommends that the Board work to further define the solar by-law proposed now for spring town meeting. Mr. Serkey also stated that this proposed by-law the way it is written now would allow for a number of ANR plans for solar in residential areas.

Discussion is held about pushing off the solar by-law until the spring when it can be more finely tuned.

Mr. Serkey recommends holding a workshop on the solar by-law and inviting the solar companies in town to sit in on them.

**MOTION: Mr. Baptiste moves to close the public hearing. Motion is seconded.**

**VOTE: (5-0-0)**

1. **Solar Energy Generation Facilities Zoning By-Law**
2. **CONTINUED PUBLIC HEARINGS**
3. **Site Plan Review Special Permit – MMDDJSAK – Pattersons Brook Road**

**The applicant has requested a withdrawal.**

**MOTION: Mr. Baptiste moves to accept the withdrawal without prejudice. Mr. Fitzgerald seconds.**

**VOTE: (5-0-0)**

1. **Form C Subdivision – MMDDJSAK – Pattersons Brook Road**

**The applicant has requested a withdrawal.**

**MOTION: Mr. Baptiste moves to accept the withdrawal without prejudice. Mr. Fitzgerald seconds.**

**VOTE: (5-0-0)**

1. **REFERRALS**
2. **ANY OTHER BUSINESS/DISCUSSION**
3. **Upcoming Hearings**

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| **September 25, 2017** | **Site Plan Review** | **Kevin Oliveira** | 1. **Recovery Road** |

1. **Upcoming Deadlines**

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| --- | --- | --- | --- |
| **October 31, 2017** | **Form C** | **MMDDJSAK** | **Pattersons Brook Road** |

1. **NEW BUSINESS (This time is reserved for topics that the Chairman did not reasonably anticipate would be discussed)**
2. **CORRESPONDENCE**
3. **See correspondence in packets.**
4. **Master Plan**
5. **ADJOURNMENT**

**MOTION: Mr. Baptiste moves to adjourn. Mr. Fitzgerald seconds.**

**VOTE: (5-0-0)**

**Adjourned at 8:23 P.M**

1. **DOCUMENTS**

**Date signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Attest: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**George Barrett, Chairman**

**WAREHAM PLANNING BOARD**

**Date copy sent to Town Clerk: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**