

CARVER PLANNING BOARD
MINUTES OF March 7, 2023

Approved
4-25-23

Chairman Cornelius Shea, Richard Dionne, John Gaskey, Ellen Sordillo, Donald Williams and Thomas Bott, Town Planner. Also present are Bruce Maki, Chairman of the Solar Battery Storage Moratorium Committee, and Attorney Amy Kwessel, of KP Law, Council to the Town.

Absent: Kevin Robinson

Meeting was called to order at 7:05PM.

Pledge of Allegiance was recited.

Public Hearing:

Chairman Maki of the Solar Battery Storage Moratorium Committee met with Eversource, Concerned Citizens for Carver, a solar company that does business in Carver, and committee members themselves who discussed their concerns with solar projects. They also heard from Gary Flaherty, a conservation agent, and Rod Palmer, Carver's Building Inspector.

Mr. Bott indicates the Planning Board and the Solar Study Committee would like the solar by-law to indicate DOER/DEP Guidelines should be followed in regards to materials and structure of solar panels so no damage from any type of leakage or decay is done to the soil and water over the life of the panels. They would like the land preserved as much as possible

Mr. Bott says there will be a provision in the by-law that solar PV modules shall be positioned to minimize the glare to an extent practical and the DOER Guidelines should be followed by adding pre-construction modeling. Also added to the solar by-law are landscaping plans, diagrams of site lines from abutting residential, commercial structures and public ways and keeping the site as invisible as possible. Also added are: 'Construction stormwater management and erosion control; Post-Installation stormwater management plan; and Prior to the issuance of a Building Permit the applicant shall provide Material Data Sheets (MDS) for all components of the solar facility.

Mr. Bott indicates setbacks for solar shall be 50 feet where the property is in a commercial zone. A Residential Agricultural district shall have a 200 foot setback on all lot lines abutting residential agricultural district regardless of the zoning designated for the proposed site. Setbacks can be reduced to a minimum of 12.5 feet by right where arrays are proposed in a joint application by owners or common ownership of abutting properties. Large solar energy facilities shall be sites at least 150 feet from abutting properties' wells and septic systems. The Planning Board may reduce setbacks but in no instance shall setbacks be less than 50 when abutting a Residential Agricultural district.

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A pre-construction conference is necessary and the site shall not be more than 30% of forested land up to a maximum of five acres per lot shall be deforested for any one LSGMSPI. If a proposed site is to be converted to a LSGMSPI, plans must show mitigation measures. No site work can begin before a pre-construction conference.

Use of chemical herbicides or pesticides is limited to those approved by the Department of Agriculture Pesticide Bureau.

All utility connections from the LSGMSPI shall be placed underground, unless soil conditions, shape or topography of the site are unsuitable per the Town's Consulting Engineer. If there is a change in ownership in the LSGMSPI the special permit shall remain in effect but it must be in writing from the successor operator who must comply with the obligations of the special permit. Stabilization or revegetation of the site must minimize erosion and runoff by using specific pollinator species and plants.

Article X1: Amend Carver Zoning By-law SECTION 3580 - LARGE SCALE GROUND MOUNTED SOLAR VOLTAIC INSTALLATIONS. Sarah Stearns, a resident, addresses the board asking about land clearing. Mr. Bott responds there is concern about not interfering with the benefits trees have both in carbon dioxide exchange in carbon sequestration and all trees must be saved as much as possible.

Jennifer Bogart of 116 Cranberry Road speaks as a resident and former Planning Board Member and asks about Section 3580-25-1 concerning setbacks and reducing setbacks if an abutter signs a waiver. She asks the board to consider removing Part A of this by-law in its entirety because it has brought legal problems and it's not being applied with its original intent. Savory Moore of 12 South Main Street believes this particular section should be revised so the abutter can make the right decision for themselves.

Chairman Shea reads the proposed changes, as follows: Section 3580.10 first paragraph adds: "including conventional and dual use." The second paragraph adds: "and shall follow the guidelines set forth in the MA DOER/MA DEP/Mass CEC regarding Ground Mounted Solar PV systems dated June 2015, as amended in the current guidelines."

Chairman Shea points out that to make an educated decision the Planning Board needs to add to the application requirements regarding solar projects so the board can obtain more information. He continues that under the operation maintenance plan they are adding the words "repair or replacement of non-functioning panels" and "in regards to the proponent shall submit a plan for the operation and maintenance which shall include measures for maintaining safe access as well as repair or replacement of non-functioning panels."

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Chairman Shea indicates the following change, “all direct abutters and individual abutters were supposed to provide a waiver if they wanted to reduce setbacks, but that is changed so that individual abutters affected can sign waivers. The individual must submit an affidavit in order to reduce setbacks. Not all abutters are required to sign waivers, just the individual abutter specific to the reduced setbacks. Applicants are required to contact all direct abutters affected. If the individual abutter does not sign a waiver, the reduced setback cannot be granted.

Another change is “setbacks to be reduced to a minimum of 12.5 feet by right where arrays are proposed in “a joint Application by owners, or common ownership of abutting properties.” This is being changed from a mutual partnership or ownership to a joint application. Also added: Other setbacks: “Large Solar Energy Facilities shall be sited at least 150 feet from the abutting properties’ wells and septic systems.”

Section 3580.26.3 Utility Connections: Being added: “verified by the Town’s Consulting Engineer.” Taken out is: “and any requirements of the utility provider.”

Land Clearing and Soil Erosion: This change will require a pre-construction conference to discuss the limits and requirements of land clearing, habitat impacts and soil erosion with the applicant prior to building. Adding: “Not more than 30% of forested land up to a maximum of five acres per lot shall be deforested for any one LSGMSPI.” “No clearing or site work can begin prior to a Preconstruction Conference with the applicant, their contractor(s) and Town Staff including the Building Commissioner, Conservation Agent and Town Planner.”

Control of Vegetation: This change will add: “Use of chemical herbicides or pesticides is limited to those approved by the Department of Agriculture Pesticide Bureau.: Taken out is: “The Agricultural Commission and Board of Health are to approve all proposed herbicides.”

Large Scale Installation Conditions: This change will be added in regard to maintenance: “repair or replacement of nonfunctioning panels”

Change of Ownership: This change adds: “If the owner of the LSGMSPI changes or the owner of the property changes, the special permit shall remain in effect, provided the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan.....The new owner or operator must provide such notification to the Building Commissioner in writing.....”.

Stabilization or re-vegetation of the Site: This change adds: “Including the use of pollinator species especially for Dual Use installations.”

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Required Setbacks and Screening for SMART/Dual Use Arrays: This change is “in no instance shall setbacks be less than 50 feet (instead of 25 feet) when abutting a Residential Agricultural district.” “To allow setbacks of a minimum of 50 feet provided standard setbacks and screening requirements are waived in writing by all direct abutters in an RA zoning district.

Chairman Shea will accept a motion to close the public hearing on Article X1, Amend Carver Zoning By-law SECTION 3580 - LARGE SCALE GROUND MOUNTED SOLAR VOLTAIC INSTALLATIONS. Said motion is made by John Gaskey and it's seconded by Ellen Sordillo.

X1, Amend Carver Zoning By-law Section 3580 Large Scale Ground Mounted Solar Voltaic Installations is now open for discussion.

Sean Bogart of 116 Cranberry Road addresses the board indicating he would like to make some recommendations regarding utility connections and thinks the following sentence should be removed: “Electrical transformers for utility interconnections may be above ground if required by the utility provider.” He would like to replace it with “all utility connections including associated equipment, as well as utility owned equipment, shall be placed underground or pad mounted underground.” The board discusses this issue along with input from Mr. Bogart.

Photovoltaic Modules: The change is “The solar PV modules should be placed in a way that minimizes glare to the greatest practical extent on residences or public ways at any time during the day.”

Direct Abutters: Chairman Shea would like to see the last sentence of the paragraph on direct abutters to include 100% screening must be achieved within the reduced setback. A signed affidavit must be provided to and filed with the Planning Board referencing the decision from the special permit decision.

Setbacks: Section 3580.25 “Affected direct abutters in a residential agricultural zone would have to waive this in writing.

Section 3580.26.3: After discussion by board members, The change is as follows for Utility Connections: “All utility connections from large scale solar shall be placed underground or pad mounted including associated equipment and utility equipment unless soil conditions or shape are verified unsuitable.”

Section 3580.41: The changed added is: “The repair or replacement of non-functioning panels on an annual basis.”

Chairman Shea will accept a motion to approve the changes for Article X1, Amend Carver

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Zoning By-law Section 3580 Large Scale Ground Mounted Solar Voltaic Installations. Chairman takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Ellen Sordillo vote's aye, and Chairman Shea vote's aye. Approved 4-0-0.

Article X2: Amend Carver Zoning By-law adding a new Section 3590 Battery Energy Storage Systems and amend section 2230 Use Regulation Schedule regarding Battery Storage, Amend Article VI. Definitions and Amend the Carver Zoning Map to identify areas for such use.

Mr. Bott reads aloud "The purpose of this section of the by-law is to advance and protect the public health, safety, welfare, and quality of life by creating regulations for the installation and use of battery energy storage systems with the following objectives." 1) Provide regulatory scheme; 2) Ensure compatible land uses; and 3) Mitigate the impacts. He indicates there will be three tiers of battery energy storage systems. Tier 1 will have an aggregate energy capacity less than 0.5MwH, but less than 1 megawatt hour. Tier 2 will have an aggregate energy capacity greater than 0.5 megawatt hour but less than 1 megawatt hour. Tier 3 will have an aggregate energy capacity greater than 1 megawatt hour. Mr. Bott explains the size of each container used for each tier. He then details the specific Battery Energy Storage Systems (BESS) for each tier; Requirements Prior to Operations; and Ownership Changes.

Chairman Shea has a comment on Section 3590.5.1 indication the language should be changed regarding utility lines and electrical circuitry on solar sites.

John Gaskey is concerned setbacks with Tier 3 with a minimum of 200 feet is woefully inadequate with regards to wells on residential lots in the event of a catastrophic failure. He would like the setback to be a minimum of 500 feet from residential lots. Mr. Dionne points out Tier 3 energy storage containers are so big they will need to be near the substation, which is not near any residential areas. Mr. Bott indicates he's not heard of 500 feet setbacks. Attorney Kwessel also states 500 feet setbacks are unheard of. The board discusses whether large battery energy storage containers are considered structures and there are also concerns noise these large containers can make. The board decides setbacks for Tiers 1, 2 and 3 battery energy storage systems shall be setback a minimum of 50 feet from all front, rear, and sides of the container, but if in a residential area the setback will be a minimum of 200 feet. To address the noise factor the board agrees to require a vegetative buffer/screening area at least 20 feet wide along all property lines.

Mr. Bogart brings up the matter of battery energy storage systems associated with solar. The two by-laws for solar and solar energy battery storage are discussed in length. Chairman Shea asks Mr. Bott what separates battery energy storage from battery energy storage systems that are connected to a solar panel. There are regulations for battery storage being a component of solar, but the battery storage system becomes an accessory if solar panels are attached to it. Chairman

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Shea also indicates solar can be regulated and batteries can be regulated but there is nothing that regulates battery storage and notes there are no regulations for setbacks, protections for water, wetlands, or secondary containment systems. The board will discuss amending Section 2230 Use Regulation Schedule regarding Battery Storage.

Mr. Bott explains the Use Regulation for BESS (Section 2230) and shows slides regarding this section of the by-law by giving details of the regulations for sizes and locations for battery energy storage systems for Tiers 1, 2 & 3. The board agrees there will be no battery storage in the Green Business Park. If a new large business is built in town they will be considered the principal and battery energy storage would be ancillary to the principal.

Chairman Shea will accept a motion to recommend amending Article X2, by adding Section 3950 Battery Energy Storage Systems to amend Section 2230, Use Regulation Schedule regarding Battery Storage, amend Article 6 definitions, and also amend the Carver Zoning Map to identify areas for use. Motion is made by John Gaskey and it's seconded by Richard Dionne. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Ellen Sordillo vote's aye, and Chairman Shea vote's aye. Approved 4-0-0.

Chairman Shea will accept a motion to close the public hearing for Article X2 by adding Section 3950 Battery Energy Storage Systems and amend Section 2230, Use Regulation Schedule regarding Battery Storage, amend Article 6 definitions and Amend the Carver Zoning Map to identify areas for use. Motion is made by Richard Dionne and it's seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Ellen Sordillo vote's aye, and Chairman Shea vote's aye. Approved 4-0-0.

Article X3: Amend Zoning Map to correct previous zoning changes not reflected in the current 2015 Zoning Map.

Chairman Shea makes a motion, if the board is acceptable to take Article X3 out of order, specifically and only in regards to Section A, Map 16, Lot 19. John Gaskey makes said motion and it's seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Ellen Sordillo vote's aye, and Chairman Shea vote's aye. Approved 4-0-0.

Chairman Shea opens the public hearing for Article X3: Amend Zoning Map to correct previous zoning changes not reflected in the current 2015 Zoning Map, specifically in Section A, Map 16, Lot 19. Amend to correct previous omissions and printing errors as shown on corrections to Carver Zoning Maps on file with the town clerk or take any other action relative thereto. This will correct an error by a new map vendor Circa 2011 from the general business to residential agricultural zone as researched by the Planning Director in 2017. This error was set into motion

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by discovery of other misidentified parcels on the current 2015 zoning map.

Dom Fernandes of 43 N. Main Street addresses explains his research and requests the correction. Chairman Shea will accept a motion to recommend Article X3, Section A, Map 16, Lot 19 be corrected. Motion is made by Ellen Sordillo and it's seconded by John Gaskey. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Ellen Sordillo vote's aye, and Chairman Shea vote's aye. Approved 4-0-0.

Chairman Shea will accept a motion to continue the public hearing for zoning changes to March 8, 2023 at 7:00PM at the Carver Police Station. Motion is made by John Gaskey and it's seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Ellen Sordillo vote's aye, and Chairman Shea vote's aye. Approved 4-0-0.

Other Business:

- A. Planning board Member Notes – Chairman: None.
- B. Planning Director Notes: None.
- C. Discussion: None.
- D. Minutes: None.
- E. Adjournment:

Chairman Shea will accept a motion to adjourn. Motion is made by Richard Dionne and it's seconded by Ellen Sordillo. Chairman Shea takes a roll call vote and Richard Dionne vote's aye, John Gaskey vote's aye, Ellen Sordillo vote's aye, and Chairman Shea vote's aye. Approved 4-0-0.

Documents for 3/7/2023 PB Meeting

Town Meeting Articles