

July 28, 2022

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Margaret Hurley, Esq.  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608

Re: Town of Carver Annual Town Meeting – April 12, 2022  
Battery Storage Moratorium Adopted Pursuant to Article 38

Dear Ms. Hurley:

KP Law, P.C. represents the Town of Carver (“Town”) as Town Counsel. I am writing to respectfully request that you approve the zoning bylaw amendment adopted pursuant to Article 28 at the April 12, 2022 Annual Town Meeting which will add a new section to the Town’s Zoning Bylaws adopting a temporary eleven and a half month moratorium on the new use of land for battery storage. For the detailed reasons set forth below, the Town states that the proposed moratorium is a reasonable regulation that is necessary to protect public health, safety and welfare in the Town of Carver.

The Town of Carver is a rural community that is heavily dependent upon agricultural land uses, particularly the use of land for the growing and harvesting of cranberries. Cranberries are grown and cultivated in wetland areas known as bogs. Cranberry bogs are not only essential for the promotion of agriculture, but they also play a vital role in the preservation of the environment and wildlife habitat and they protect the local drinking water supply.

Although not yet defined in the Carver Zoning Bylaw, it is understood that “battery storage” is a power system using devices that collect energy from a power source and then discharges that energy at a later time when needed. According to the Massachusetts Clean Energy Center, the energy storage market is rapidly expanding in Massachusetts.

In the current version of the Carver Zoning Bylaw, the term “Battery Storage” is listed as a use in the Table of Uses, with the designation “SP\*Y”. The term “Battery Storage” is not defined in the bylaw, nor is the designation “SP\*Y”. In fact, this designation does not apply to any other type of use.

In spite of this ambiguity in the current bylaw, the Town’s Planning Board recently granted a special permit for a 150 megawatt/300 megawatt hour battery energy storage facility on a six acre site in the Town’s Residential-Agricultural zoning district. Most types of commercial and industrial uses are prohibited in this district or strictly regulated through the special permit granting process. Therefore, given the two possible options of “SP” or “Y”, the Board opted for the more restrictive

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reading and issued a Special Permit rather than Site Plan Review, and the applicant cooperated with this process. The Town, however, cannot be assured that future applicants will be as cooperative.

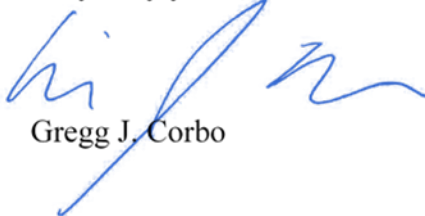
Residents of the Town have expressed significant concerns about this project and the possibility of other similar projects going forward in their community. Although the Commonwealth is encouraging the development of land for this purpose, utility-scale battery storage projects present land use, permitting and environmental health and safety issues that must be studied. For example, a recent fire at a battery storage facility in Arizona burned for nearly two weeks, causing evacuations as far as a quarter of a mile away from the facility and exhausting the community's public safety agencies. Notably, that facility was only generating 10 megawatts of power, compared to the 150 megawatts to be generated at the Carver facility. In the absence of a comprehensive zoning bylaw addressing location and permitting standards for such facilities in Carver, a similar incident could have devastating effects for the residents of Carver.

Given the ambiguity in the Town's current bylaw and the potential significant impact that battery storage facilities may have on public health, safety and welfare, a brief pause on such development will allow the Town time to study the issue, determine what regulations are required and the present a bylaw amendment to Town Meeting. These are important concerns, particularly for a community that is so heavily dependent on land in residential and agricultural use. For this and other reasons, the proposed moratorium was supported by a large majority of those voting at Town Meeting, with a passing vote of 387 in favor and 76 opposed. Therefore, the Town respectfully requests that you approve the bylaw adopted pursuant to Article 38 at the May 12, 2022 Annual Town Meeting.

If you have any questions or need any additional information, please do not hesitate to contact me.

Thank you for your attention to this matter.

Very truly yours,



Gregg J. Corbo