

Town of Pownal
Planning Board Minutes
Wednesday, February 17, 2021
6:00 PM Zoom Remote Meeting

Members Present: Matt St Cyr, John Bowdren, Gabe DiGristina, Jesse Peters, Secretary: Christine Watson, Alternate: Matt Altieri, Marika Clark, Town Planner: Tony Dater

Guests: Shawn Tobey, Sara Lapine, Christian Snow, Ansley Newton, Chad Merrill, Steve Moreau, Tina Snow, Shawn Meehan, Doug Stewart, Chris Byers, Jonathan Seavey of NECEC, Nancy Matteson, Alan Hill – CEO, Select Board Members: Heidi Curry and Jon Morris

1. Call to Order at 6:08 pm by Matt St Cyr

John made a motion that Matt Altieri be made a voting member for this session. Jesse seconded. Discussion: none, Vote – All in favor.

2. Secretary's Report:

- a) Special Meeting Minutes of January 12, 2021 –Discussion: John stated a grammar correction to be made, on motion by Matt to accept minutes as amended, seconded by John, Discussion – None, Vote: Yes-6, No-0, Minutes Approved as amended.
- b) Workshop Meeting Minutes of January 12, 2021 – on a motion by Jesse to accept minutes as written, seconded by Matt St Cyr; Discussion- John indicated a typo correction to be made. John motioned as amended Jesse seconded Discussion – None; Vote: Yes-6, No-0, Minutes Approved as amended.
- c) Regular Meeting Minutes of January 20, 2021 – Discussion: Matt St Cyr, Gabe, John and Matt A. indicated a clerical correction to be made. On a motion by John Bowdren to accept minutes as amended, seconded by Jesse Peters; Discussion – None; Vote: Yes-6, No-0, Minutes Approved as amended.
- d) Special Meeting Minutes of January 26, 2021 – Discussion: Matt St Cyr commented about the content. He did reach out to Liza regarding what was modified on the special exception definition at the town meeting in June of 2018. Per Liza, they designated that the planning board administers special exceptions. Matt St Cyr noted a typographical correction to be made. On a motion by John Bowdren to accept minutes as amended, seconded by Matt St Cyr; Discussion – None; Vote: Yes-6, No-0, Minutes Approved as amended.
- e) Special Meeting Minutes of January 28, 2021 –Discussion: Gabe and John stated grammar correction to be made. Matt St Cyr stated he had a comment about the general content of the minutes. He summarized the Peaslee project for Alan the CEO in case he tries to split the other lots. Matt doesn't think a permit should be given out without the due diligence of making sure that the wetland delineation that was done was done on the entire piece as it is super swampy. Mr. Peaslee did have one or two small parts done and then a really rough delineation but the planning board is not sure what was good and not good. Matt wanted to make sure that Alan was aware of this. On a motion by John Bowdren to accept minutes as amended, seconded by Gabe; Discussion – None; Vote: Yes-4, No-0, Minutes Approved as amended.

3. Old Business: NBD Solar Maine

Matt recapped the project. Revisions of the property to be reviewed are the private road, loop road around the outside, wetlands, road frontage. Shawn T. stated that they took all the comments and tried to work them into the plan. They eliminated the driveway at the front of the site looking into the site distance as it was just too tricky with the corner and decided to use the existing easement on the adjacent parcel, where there is already an existing 18' wide driveway. Based on the ME DOT guidelines for driveways they meet the site distance requirement (370' to the west 750' to the East). In Coordination with the fire chief, Jesse, they will have a six-foot sliding gate at the front of the site. This will allow for emergency vehicles to pull up on the side of the road, go through the gate and have access to the poles. A 12' foot road will go through the site go up towards the front of the site where the poles are and the hammerhead. A second 12' foot road will continue to the south, going over run a round brook, loop around through the back of the site. They have reduced the conductor pads with the inverters from three to two and moved them to the center of the site. They put the wetland permitting on hold as there may be some changes with the addition of the loop road for fire access throughout the site. This puts them over the one-acre threshold for stormwater permit by rule. They will submit to DEP a stormwater management law permit.

Ansley Newton, an abutter located on Sweetser Road stated that in 2019 the Maine Legislature enacted an act to promote Solar Energy Projects and Distributed Generation Resources in Maine. She referenced appendix A #9 which reads, "*Project is sited such that no more than 10% of the project is located on land containing soils defined by the USDA Natural Resources Conservation Services as "Prime Farmland" or "Farmland of Statewide Importance," as determined by a field-based survey conducted by a licensed soil scientist*" Ansley also noted that this could not be a soil map. The survey requirement is to have an affidavit from a Soil Scientist licensed by the Maine Department of Professional and Financial Regulation. She asked where the field-based survey conducted by the licensed soil scientist is.

Shawn asked what the law is in reference to; Is it a PUC law or a solar site guideline? Ansley responded that it is an act that requires the PUC to solicit long term contract proposals. Ansley also added that she was able to speak with someone who helped enact the law and the intent of the law was to not place solar projects on prime farm land. All she wants is a copy of the survey. Shawn asked is this only if you are going into the PUC lottery process? Ansley responded no, this is any siting according to the law. Her concern is if this is the law then we in Pownal need to follow the law when we are considering a solar facility. Matt requested where we could go to find this information. She will send the information to Matt after the meeting. Shawn T. communicated that as far as he is aware there is no law that stipulates that you cannot place a solar field in any farmland state of importance. If you are going into or entering the Maine PUC lottery where you are preparing a project that would be accepted, funded and financed by the PUC, they have certain guidelines for how they recommend on how those should be situated and they do try to avoid farmland of statewide importance. As far as he is concerned, he is unaware of any laws that would regulate what could be stipulated for a project in a specific private piece of land. This is a private project and is not intended to be entered into the PUC lottery. Chris Byers responded in the Chat room that the rule being discussed only applies for projects bidding into the PUC procurement. The soil rule doesn't apply if this isn't in the procurement. Matt informed Ansley that we have solar development consultant to answer questions and he will reach out to the consultant to see if it applies. Reduced road frontage was discussed. Matt St. Cyr reported to Shawn that the property boundary between 3-76-1 and NBD Solar lot 3-76 did occur in 1974. March of 1966 the Town of Pownal did adopt a 200' minimum road frontage that would have applied in 1974 as well when the property was split. March 28 1974 Ernest Fickett came before the planning board to find the requirements to give a piece of land to his son, which would be the 3-76 -1 property. There was 350' of road frontage aggregate and he wanted to divide the property into two pieces, one with 200' road frontage and the other with 175' road frontage. The planning board at that time made a point that if he wished to build on the 175' lot he would have to go before the Board of Appeals. What Matt extracted was the planning board asked him to provide some kind of soils report and the land be surveyed. The planning board at that time was informing Mr. Fickett that he was creating a nonconforming lot with the 175'. Based on the minutes of 1974 not grandfathered with the road frontage. If NBD Solar did not want to put in the private road, this planning board would tell you no and then you would need to go before the Board of Appeals. The planning board wanted you to know that we did our due diligence, not to prove you wrong,

but that you presented the information to us and we moved forward to process it. A question was raised from Shawn T.: If they did a private road, it would essentially be land locked unless they had it connected to the frontage of the parcel? Matt responded, he thought we discussed this at the last meeting and what brought the board to comfort with the land locked, private road dilemma was that NDB Solar was providing a letter from the owners of the property next door 3-83 stating you had deeded access what you call on your sheet the existing 18' plus or minus wide gravel access road. The board requested at the last meeting for a simple language letter from the owner of the property stating that NDB Solar did have access to the property for the planning board files. The letter should make reference to the deeded easement and definitely make reference to the owner. John asked Matt going forward if we would be looking at a 200' road for frontage. Matt stated as a board this is something we will have to hash through. The question being, can we use non-contiguous frontage. Access to the poles in an emergency to cut power was also discussed. Jesse stated that he actually asked Shawn to have the 6' wide man gate on Fickett street otherwise they would have to go through two gates to get to the shutoffs. Safety for the emergency personnel when pulled over at the gate location was the main concern as it is at the crown of the hill. Other options were discussed where the shutoff apparatuses could be located. Shawn T. asked if there would be an option to get a waiver from constructing to a private road standard in an effort to reduce impervious cover. Justification is that there will be no houses built, the road would be used for servicing the poles used twice a month. The board's consensus is that the road should be built to the specification. Ansley asked Shawn T. what their plan B if this does not go through. Shawn T. explained that this was a question for Christian Loranger. Doug Stewart asked Shawn T. if he was familiar with the Maine Department of Inland Fisheries and Wildlife Solar Energy Project General Resources Guidance and Recommendations updated March 5 2020 and also the Maine Department of Agriculture Conservation & Forestry published a document called the Technical Guidance for Utility-Scale Solar Installation and Development on Agricultural Forested and Natural Lands updated on January 8, 2021. He strongly suggested that Shawn T. take a look at it. Doug S. asked if the board had time to investigate the three items that he brought up at the workshop. Matt reported that he and the town attorney had a conversation and gave a synopsis of the responses to Doug's questions. John asked Shawn T. with the news lately about CMP interconnection; is this part of your contract. Do you have a contract with CMP? NBD Solar submitted an interconnection application but Shawn does not where the interconnection process stands right now.

In preparation for the next meeting - Shawn will need to look into moving the connections points further down into the property - Moving the 300' private road to some other place in the skinny area of the property. Letter from the owner of the property next to you indicating NBD Solar has approval to use the road. Still need letters from realtors that the property values are not going to go down if you have a solar field across from you. Letters from abutters who own horse farms stating the panels and the noise does not affect the horses. The Planning board is to read the documents that were presented by Doug and Ansley.

New Business: Chad Merrill Pollock Subdivision

Chad Merrill is before the planning board to amend the Pollock Subdivision from a minor to major subdivision. The planning board proceeded to go through the major subdivision checklist for the third amended Pollock Subdivision with Chad.

Requested test to show on the plan, Lot 60.00 the planning board requested to have the lot 60.6 soil driveway come off of Caleb Way vs Lawrence road when he rebuilds the house and this will be a condition of approval. HOA will need to be provided. Matt asked if there was any access to the Durham piece in the back. Chad replied that he gave the Pollock's access to the lot via an easement. Matt S. clarified that if the Pollocks wanted to access that piece on the Durham side they would use Pollock Drive. At this time Chad is not asking for any waivers. Matt S. asked if he could give one suggestion. Chad had no objections. A waiver to make Caleb's Way longer. Matt S. stated that Caleb's Way ends in the swampy area and making the road longer and goes up onto the dryer area would give us more room to have an appropriate hammerhead or a cul-de-sac leaving that up to Chad to decide. This board is indifferent if you want to use a hammerhead or a cul-de-sac to have a fire truck turn around. The waiver would be for extension of Caleb's Way so many feet and basic reason to do so. John stated to Chad if he goes with the hammerhead to please have the surveyor take a second look at the diagram in the town ordinance – the drawing is not correct – the

numbers are correct but the scale is incorrect. You need the 60' for the turnaround for the trucks and right now it looks like it's 25'. The abutters names and buildings will need to be added to the plan on lots 60.00,60.04, 60.3, 60.02. Two notes to be added for each road: **"Pollock Drive and Caleb's Way is not a town road and the Town of Pownal has no responsibility for maintenance or any other aspect of this road."**

Tony asked if this applicant need to do a road profile for the extended portion so that you can show where the culvert is and where any cut or fill that meets the ordinance to be done just for the extended part. It was determined the new extended 300' plus the extension should have a road profile done.

Question was raised on how much of the wetland did he interrupt when he put the house on lot 60.04. The answer was 2482 - permissible with DEP is 4200. With the new road extension and if you accumulate enough to be over the 4200 will have to talk with DEP. John asked if it resets or is cumulative on the original lot. Matt S. will check with DEP and ask the question. Matt S. explained to Chad that because it is a major subdivision, he is in another bracket of requirements. The planning board can hire a consulting engineering firm to check the road as your building it to ensure that the road is built according to the specs. Not sure if makes sense to do it here or not. Matt will check with the select board and see what their thoughts are on that. Matt also explained that expense of the consultant if hired would be paid by him. Discussion transpired regarding the location of the cistern for easy access for the fire trucks. Jesse stated that the best place for the cistern would be on Lawrence Road. Chad will reach out to the planning board when he is ready to come back before the board. John also informed Chad that there will be a site walk and a public hearing as well.

4. Discussion:

- **Ordinance Definitions – warrant**

The Board reviewed the definitions that the public had suggestions during the public hearing on 2/10. We discussed and revised the following definitions for the next public hearing scheduled for 2/24.

11. Bed & Breakfast that meet the following standards:

e. Per the comprehensive plan, The design of the structure shall reflect and compliment the rural character of the town as reflected in the comprehensive plan.

12. Inns that meet the following standards:

f) Per the comprehensive plan, The design of the structure shall reflect and compliment the rural character of the town as reflected in the comprehensive plan.

Accessory Dwelling: A small-dwelling, either attached (connected to the principal dwelling) or detached (unattached) which is ~~part of an existing single family owner occupied home~~ is located on the same lot ~~and which as the principal dwelling.~~ is clearly secondary to the single family home. This definition includes, but is not limited to, guest houses, cabins, and cottages. The accessory dwelling and/or the principal dwelling may be rented. The dwelling shall have living, sleeping, sanitary, and kitchen facilities for the exclusive use of the unit occupants. ~~The owner of the primary building may rent the accessory dwelling or the primary building owner may occupy the accessory dwelling and rent the primary dwelling.~~ The dwelling will have only one bedroom and one bathroom. The accessory dwelling unit cannot ~~be no more than 625 square feet or 50% of the square footage of the primary dwelling, whichever is more restrictive.~~ exceed 750 square feet. Only one accessory dwelling is permitted per lot. All current codes must be met and an Occupancy Permit must be obtained. Parking must be available onsite.

Base Flood: (also referred to as One Hundred Year Flood): ~~Flood having a one percent change of being equaled or exceeded in any given year, commonly called the 100-year flood.~~ The highest level of flood that, on the

average, is likely to occur once every 100 years (that has a one percent chance of occurring in any year). See the current FEMA map for zone A for reference.

ENGINEER

Municipal Engineer or consulting Professional Engineer licensed by the State of Maine.

Solar Energy System:

A complete design system or assembly consisting of a solar energy collector, an energy storage facility (when used), and any related components for the distribution of transformed energy converting and distribution of sunlight to electricity.

TECHNICAL REVIEW/ engineering peer review

Professional expert consultant or consultants who shall be chosen by the Planning Board for the purpose of reviewing, commenting and making recommendations to the Planning Board with respect to approval of land development and subdivision applications.

The practice of obtaining an independent, unbiased evaluation of the adequacy and application of scientific or engineering principles, standards and judgment from an independent group of professionals having substantial experience in the same field of expertise.

This may include but is not limited to detailed review of proposed Master Development Plans, Site Plans, Preliminary Plans, Improvement Plans and Final Plans by the Planning Board, for compliance with Town Ordinances, Standards, or conditions of approval by the Planning Board.

The board decided to remove Swale definition from the list of new definitions.

Public comment regarding the Open Space definition to add restrictions to each definition was suggested. Christine commented that the definitions can change and felt that the restrictions if any should be on the plan. Tony stated that open space regulations probably should be a note on the plan because deeds reflect plan notes. Tony recommends if you have something to say about open space preservation or contemplating changes, they would have to come back to the planning board. That is a note on the plan.

Tony gave a summary of the updates to the Shoreland Zoning Ordinance. Jeff from DEP got back go Tony. Jeff reviewed the draft of the Shoreland Zoning Ordinance and had only a few minor changes. *Do not delete section 4A. Section 4 B can be deleted.* He signed off on it and it meets state module.

5. Other Business:

- **Article 3, Section 12, D.5 Prohibited – All Districts. - Changeable Signs**

Sec. 12.D.5

Changeable signs- any sign that periodically changes its message by any means, including mechanically, electronically or digitally, including time and temperature signs, except that such signage shall be allowed on the property of governmental agencies, provided that such signs are limited to the purpose of promoting municipal and public-school events.

Matt gave a brief summary. On a motion from Matt St Cyr to accept the new definition of movable sign as presented and advise we move it along to warrant. John seconded, Discussion: Gabe asked who ultimately decides what the sign looks like aesthetically - John stated town hall committee. Vote – all in favor. – Christine will inform Melissa Porter of our approval and to schedule a joint public hearing with the Select Board.

- **Sanders Subdivision** – All documentation was received to schedule a Site Walk. Date was set for March 16, 2021 at 4:00 pm to give adequate time for posting the public notice.
- **Application – envelopes and letters** - Christine requested to update the application and check list to read: stamped legal sized envelopes. As she was receiving small envelopes to mail the notices in. All approved.
- Workshop was scheduled March 10, 2021 at 6pm

6. March Agenda: Old Business: NBD Solar Maine, Lois Sanders Subdivision

Meeting adjourned at 9:57PM

Respectively submitted,

Christine Watson

Christine Watson
Planning Board Secretary
3-17-2021