

NORTH BERWICK PLANNING BOARD

MINUTES OF PLANNING BOARD MARCH 11, 2021

Present: Chairman Geoffrey Aleva, Jon Morse, David Ballard, Mark Cahoon, Anne Whitten (arrived at 6:33 after minutes were voted on)

Also Present: Lee Jay Feldman from SMPDC, Gil Paquette, Greg Lucini, Jean Friend, Lulu S, Mark O'Brien, Sam Murphy

1. Call to Order:

Chairman Geoffrey Aleva called the meeting to order at 6:30 pm.

2. Review Previous Minutes:

Jon Morse motioned to approve the minutes of February 11, 2021 as written. David Ballard seconded the motion. VOTE: 4-0

3. Current Business:

3.1 Continued Review

Gold Mark LLC & ISM Solar Quarry, LLC
486 High Street (Map 004 Lots 89 & 92)

Continued Review: The applicant is proposing an approximately 7.2-megawatt (MW) DC, photovoltaic solar energy generation facility to be sited at 486 High Street. The project is anticipated to occupy approximately 41.07 acres of this land, and will include ground mounted photovoltaic panels, access roads, small electrical equipment pads, and fencing. The property is identified as Lot 89 & Lot 92 on the Town of North Berwick Assessor's Map 4.

Chairman Aleva stated that the Board has been provided some updated plan sets within the past couple of days. He asked Lee Jay Feldman if he had any comments regarding the project. Mr. Feldman stated that ISM Solar did go back and make changes after the last site walk and meeting with Dwayne Morin. Since that time, they have redesigned the plans to address the 20-foot road entrance which will meet the private street standards. They have increased setbacks from the last plan due to panels being kept from within the gravel pit excavation area. There is no panel that is closer than 150 feet to the property lines. They have also kept a 75-foot tree buffer to the north, 100 feet to Route 4 and 60 feet to the south. Mr. Feldman stated that the wetland setback was discussed with the Planning Board at the site walk and they have designed it in accordance with those discussions. They will meet a 75-foot buffer with limited panels and grading to be performed in this area. They will perform selective tree cutting in the area with no vehicular

access within 25 feet of the wetland. Mr. Feldman stated that Underwood Engineers have come back with no comments other than suggesting that they consider asking for references on the hydroseeding that was being proposed. Since the time of the request, the applicant has provided these references.

Mr. Feldman stated that some of the things that were concerns at the last meeting with the Board have been addressed as well. The plan set that is being presented tonight has been stamped by the Civil Engineer of record as well as the Surveyor for the overall site. The drive access was redesigned. The applicant has provided a written waiver of Article 5.2.2.b for reshaping the pit sidewalls to a 3 to 1 slope for better sunlight to the project. The only other thing that the applicant is asking for is that, if the Board is willing to approve the application, it would be conditioned on receiving the DEP permit rather than waiting for the DEP permit be handed to the Town of North Berwick before final action is taken.

Mr. Feldman stated that he has reviewed the plans and they do meet all of the issues that have been requested and addressed. He has also provided the Board with a draft Findings of Fact. The only thing that he did was add 2 conditions for approval. If there are any additional conditions from the meeting tonight, he can add them. The Board will have the signing page sometime tomorrow. The conditions are as follows:

1. A Knox Key Box will be placed at the gated entrance to the facility in order for Emergency access if it is required. The placement of the box shall be approved by the North Berwick Fire Chief.
2. A surety in the amount of \$150,000.00 be required to be extended through a date established by the Planning Board to insure proper growth of all new planted vegetation and grasses.

Mr. Feldman stated that he recommends the surety be guaranteed for at least 2 years. The amount is the same as the amount that is currently in place for the extraction operation.

Chairman Aleva asked Mr. Feldman if either he or the engineers had any comments or issues regarding the waiver request. Mr. Feldman stated that he did not see any comments from Valerie from Underwood Engineering regarding the waiver request. He stated that he is fine with it provided that the bankings are hydroseeded and they take. This would be the main concern especially on a short-term basis if there are any heavy rain periods. He expects that the applicant will have to go back in and address any rills or regrading that is needed if necessary. Other than that, Mr. Feldman has no issues with the waiver. He said that they are far enough away from the abutters so there should be no issues with the steepness of graded walls.

Chairman Aleva asked the applicant to go over the changes from the last time. Greg Lucini, CEO of ISM Solar Development, stated that they appreciated the receiving the review memo so they could make changes prior to this meeting. The major change that they made is in response to the Board's concern regarding the removal of excess material being considered a continuation

of the mining operation and that it would be inside of the 150-foot mining buffer. The solution that they came up with was to locate all of the panels outside of the 150-foot buffer. They are not asking for any variance regarding this. The only place that they encroach into the 150-foot buffer is just to build the slopes which they are saying are incidental to the construction of the solar array itself.

Jon Morse asked if they would be using the Geoearth on the slopes as well as the base under the panels of the solar array. Mr. Lucini stated that they have not made a final decision on this yet. He said that he knows that they have to stabilize it. He will be looking for some advice from the landscaper that will be doing the work. He will ask if the slope is appropriate for the geo biological material. He said that they think that it is and is the best solution, but he will verify with the landscaper. He stated that the geo will stay in place better than the loam will if a storm comes before it vegetates. Mr. Lucini states that the biggest reason they use the geo material is because if they use loam for the 31 acres that will have panels, it would be a lot of trucks filled with loam coming and going. One of the things that they do when they build these sites is that they try to make the entire process as ecological friendly as possible. He said that the vegetation also comes in faster just like when you hydroseed grass.

Anne Whitten said that when they went on the site walk, the slope was there where it was once called a vernal pool. She asked if they were taking any gravel or other material away when they are doing the slopes. Gil Paquette, the Engineer from VHB, showed the members on the computer screen where the setbacks and encroachment areas were. Anne Whitten asked how much material are they hauling out of the area? Mr. Lucini stated that there is not much material that will be coming out of that area. He said that they are taking material off of the site to build the slopes. What they need to excavate around the perimeter of the slopes will be taken away. Ms. Whitten asked if they were taking away more than what the Ordinance allows? Mr. Lucini stated that they are taking away material that is allowed if it is incidental to the construction of the project which is why they have asked for the waiver for this section. Chairman Aleva told Ms. Whitten that the applicant had a meeting with Dwayne Morin about a week or so ago about this situation. The agreement that they had was for them to apply for a waiver request from us for that portion of the work that they need to do to shape those areas that are not used on site to level off the pit.

David Ballard asked if there was going to be an electrical generator on the property. Mr. Lucini stated that there will be inverters and a transformer. Mr. Ballard stated that on page 7 of the Findings of Fact under Conditional Use Standards, the 4th one reads, "Utilities – This site will be an electrical generator and will have no sewer or water on the premises.". He stated that the wording might need to be changed. He wants to make sure that it is indicated that an electrical generator is located there.

Anne Whitten asked Lee Jay Feldman for some clarification of Section 5.2.2.b. She said that it reads, "Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held.". She stated that she understands this

part, but it also states in the same paragraph, “The Planning Board may waive any and all of the following requirements when less than 25 cubic yards of material per year is to be removed.”. She doesn’t understand why they are in the same paragraph. Lee Jay Feldman is not sure what the thought process was for writing it this way. He said that by saying the Board can waive any or all requirements, he thinks that it is referring to sections “c” and below. Anything that is incidental to a valid permit, which is what Mr. Lucini suggested earlier, is what he would agree with because it is a standalone sentence.

Anne Whitten asked Chairman Aleva if he had talked to Dwayne about this issue. Chairman Aleva said that he had, and it was his understanding that this was the agreement that they came up with. There were a lot of discussions between Dwayne and the project’s attorney about how these provisions apply to the property and the project.

Chairman Aleva moved Mark Cahoon up to full voting status.

David Ballard motioned to allow the applicant to provide a written waiver of Article 5.2.2.b for reshaping the pit sidewalls to a 3 to 1 slope for better sunlight to the project. Jon Morse seconded the motion. VOTE: 5-0

Mr. Lucini stated that they are respectfully asking the Board to approve the project pending their final submission of the State Site Law Permits. Those are currently still in process and the State is backed up. They would like to have the Town part complete so that all they would have to do is wrap everything up with the State. They have all the same drawings, and it will be based on what the Board is seeing tonight. He stated that they condition the building permit to indicate that it will not be issued until receipt of the State permits. Chairman Aleva asked if the State had given them a time frame for completion of the permits once they submit the final plans. Gil Paquette stated that the order is written but they wanted to get final Town approval first. He said that the DEP is fine with the project, but they just want to see the final plan and not multiple plans. He believes it may take about 3 weeks to get.

Lee Jay Feldman stated that the conditions for the project would read as follows:

1. A Knox Key Box will be placed at the gated entrance to the facility in order for Emergency access if it is required. The placement of the box shall be approved by the North Berwick Fire Chief.
2. A surety in the amount of \$150,000.00 be required to be extended through a date established by the Planning Board to insure proper growth of all new planted vegetation and grasses.
3. No permits shall be issued until the Town has received a final copy from the Maine DEP on their approvals.

Gil Paquette stated that the plan that has the waiver language on it also has a note regarding the condition that the building permit will only be issued once DEP permits have been received. Lee

Jay Feldman told Mr. Paquette that he will also have to add the other 2 conditions to the plan as well.

Jon Morse motioned to approve the Conditional Use Permit for Gold Mark LLC & ISM Solar Quarry, LLC, for a solar energy generation facility located at 486 High Street (Map 004 Lots 89 & 92) and the Findings of Fact with the following conditions:

1. A Knox Key Box will be placed at the gated entrance to the facility in order for Emergency access if it is required. The placement of the box shall be approved by the North Berwick Fire Chief.
2. A surety in the amount of \$150,000.00 be required to be extended through a date established by the Planning Board to insure proper growth of all new planted vegetation and grasses.
3. No permits shall be issued until the Town has received a final copy from the Maine DEP on their approvals.

Mark Cahoon seconded the motion. VOTE: 5-0

- 3.2 New Business:
Stephen Mansfield (Tenant-Michael Burke DBA Wicked Awesome Stuff)
34 Elm Street (Map 017 Lots 044)
Applicant is proposing a thrift retail shop with online sales within the 675 sq. feet of space adjacent and within the same building as Serenity Salon. Applicant proposes to be open 7 days a week from 11 am to 7 pm.

Per Dwayne Morin, the applicant has withdrawn their application for this project.

4. Other Business:

There is no other business at this time.

5. Adjournment:

Anne Whitten motioned to adjourn the meeting at 7:20 pm. Mark Cahoon seconded the motion. VOTE: 5-0

Roger Frechette,
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Geoffrey Aleva

Approved at April 8, 2021 ZOOM meeting

Jon Morse

Approved at April 8, 2021 ZOOM meeting

Anne Whitten

Approved at April 8, 2021 ZOOM meeting

David Ballard

Approved at April 8, 2021 ZOOM meeting

Scott Strynar

Approved at April 8, 2021 ZOOM meeting

Mark Cahoon

Approved at April 8, 2021 ZOOM meeting