

## NORTH BERWICK PLANNING BOARD

### MINUTES OF PLANNING BOARD NOVEMBER 10, 2022

**Present:** Chairman Jon Morse, Anne Whitten, Mark Cahoon, Scott Strynar, David Ballard, Justin Perry

**Absent:** Scott Carpenter

**Also Present:** Matt LeConte

1. Call to Order:

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

2. Review Previous Minutes: N/A

3. Current Business:

3.1 Ordinance Workshop: Review Ordinance for proposed changes in FY23

Chairman Morse stated this is a workshop to discuss and make changes, if necessary, to the ordinances in place and is a continuation of the last meetings' discussions.

Chairman Morse indicated he would like to start the meeting by discussing the subdivision industrial zoning map change request. He referenced an email from Dwayne Morin which stated that the owner (Jason Day) had approached him about a battery storage company which would utilize a portion of the land abutting the power line easement. Matt stated he was also present at that meeting. In that case, Chairman Morse feels that land would have to remain industrial. He believes that before they do anything else, he would like Mr. Day to come back in before the Board and provide more information. He indicated that nothing like that was discussed and in fact, he stated that they simply just wanted to build a house. He feels they should not change the zoning map and then have to come back later on and change it back. Mark Cahoon asked if he had gone before the Selectman and Chairman Morse stated he believed he just went to talk to Dwayne about it. Matt stated that Mr. Day did go meet with Dwayne after his formal request to the Board indicating that a power company had requested some space and he was unsure how to negotiate that. Matt stated that it does certainly make sense to table this issue until we receive more clear information. Justin Perry stated that if the boundary lines were adjusted, he could not have a battery storage company there so he would need to decide if he wanted battery storage company or if he would want to build a house. Scott Strynar indicated he has now come before the Board two times now and both times he was looking to change from industrial to residential because he wanted to build his son a house. Matt indicated he would reach out to him and invite him to come before the Board again which would provide a clear

record of what actually he is looking to do. Matt absolutely agrees that any discussion needs to be on a record before the Board acts on his request.

Chairman Morse inquired if the Board should go through Sanford's Solar Rules and Regulations to see if those are something we would like to attach to our ordinance and perhaps adopt. Scott Strynar inquired how to handle the commercial entity solar array versus the residential solar array. Justin Perry believes that there is a kilowatt number that provides a break point separating the two. Anne Whitten stated she could read Sanford's Rules and Regulations and the Board could comment on each point.

Anne Whitten read into the record § 280-15-12 **Solar energy system**. [Added 3-7-2017 by Order No. 17-31.07; amended 4-7-2020 by Order No. 19-772-01] as follows:

*Purpose. The purpose of these provisions is to regulate a solar energy system, allow the City to be informed of the placement of a solar energy system, preserve and protect public health and safety, allow for orderly development of land, and protect property values.*

**B.**

*Standards.*

**(1)**

*A residential solar system (RSS) shall:*

**(a)**

*Comply with the setback and height requirements of the zoning district in which the system is to be installed.*

**(b)**

*Comply with the provisions of all applicable requirements of the City's building, electrical, fire, and other health safety and technical codes, including but not limited to Chapters 90: Building and Building Regulation and 128: Fire Prevention.*

**Anne stated we would have to change any references to match our own references/codes/chapters**

**(c)**

*Be installed so as not to cause any wire or wireless communication signal disturbance.*

**(d)**

*Be sited to prevent glare onto abutting properties, structures, and roadways.*

**(e)**

*Be removed if it has not produced power for a period of twelve (12) consecutive months.*

Justin Perry inquired how we could monitor the twelve consecutive month issue. Chairman Morse indicated we could take out section e altogether regarding residential. Justin Perry feels there needs to be some definition regarding residential versus commercial.

(2)

*Standards. A commercial solar system (CSS) and utility solar system (USS) shall:*

(a)

*Comply with the requirements of Article XVI: Site Plan Review.*

(b)

*Comply with the setback and height requirements of the zoning district in which the system is to be installed; however, the Planning Board may require additional setbacks and buffers from existing abutting residential uses to minimize impacts from the project.*

(c)

*Comply with the provisions of all applicable requirements of the City's building, electrical, fire, and other health safety and technical codes, including but not limited to Chapters 90: Building and Building Regulation and 128: Fire Prevention.*

**Anne again stated we would have to change any references to match our own references/ codes/chapters**

(d)

*Comply with the industrial performance standards specified in § 280-15-3.*

(e)

*Ground-mounted system.*

[1]

*Secure all ground-mounted electrical and control equipment to prevent unauthorized access. The system shall be enclosed within a minimum seven (7) foot tall fence with locking gate and Knox-Box® to provide emergency access. The type of fence shall be appropriate for security, screening, and/or other purposes and shall be similar to and/or compatible with the style of fences used within one-thousand (1,000) feet of the property boundary.*

[2]

*A ground-mounted system in the Rural Residential Zone (RR) shall comply with the standards specified in § 280-15-12B(2)(l).*

[3]

*A ground-mounted system in the Residential Development Overlay Zone shall comply with the standards specified in § 280-15-12B(2)(m).*

(f)

*Install all electrical wire and utility connections, except for transformers and controls, underground to the greatest practical extent. The Planning Board shall consider prohibitive costs and site limitations if asked to waive this standard.*

(g)

*Limit exterior lighting to that required for safety and operational purposes.*

**Anne again stated we would need to comply with our own standards and requirements.**

(h)

*All signs shall meet the specifications of § 280-14-13.*

(i)

*Be appropriate to the surroundings and minimize environmental and visual impacts on adjoining properties, including:*

[1]

*Screening ground-mounted installations from view by abutting residential properties, using vegetation, topography, and/or fencing.*

**Scott Strynar would like vegetation to be enforced.**

[2]

*Using a manufactured finish appropriate to and compatible with the surroundings, with reflective characteristics that minimize negative visual impacts to the greatest practical extent.*

(j)

*Shall plant native, non-invasive groundcover, which is low-maintenance, drought resistant, and non-fertilizer dependent, under and between rows of solar panels to prevent soil erosion.*

*[Added 5-3-2022 by Order No. 21-494-01III]*

[1]

*Editor's Note: This order also redesignated former Subsection B(2)(j) through (l) as Subsection B(2)(k) through (m), respectively.*

**Anne stated we could remove any reference to editor's note.**

(k)

*Be removed if it has not produced power for a period of twelve (12) consecutive months. In the event of a natural disaster, act of violence, or other event which results in the absence of electrical generation for twelve (12) months, by the end of the twelfth (12th) month of nonoperation the applicant shall demonstrate to the City that the project shall be substantially operational and producing electricity within twenty-four (24) months of the event. If such*

*demonstration is not made to the City's satisfaction, the decommissioning shall be initiated eighteen (18) months after the event.*

**(l)**

*A performance guarantee in compliance with Article XVII shall be provided prior to initiating construction. The performance guarantee shall provide adequate funds to cover the total cost of decommissioning. Every five (5) years after the start of construction, updated proof of the cost of decommissioning shall be submitted to the City Engineer. If the amount of the current performance guarantee is inadequate to cover the total cost of decommissioning, the applicant shall provide a new performance guarantee to the Planning Department in an amount which is adequate to cover the total cost of decommissioning.*

**(m)**

*A USS in the Rural Residential Zone (RR) shall require conditional use approval by the Planning Board in accordance with Articles XIII and XVI and the following standards:*

**Anne stated she feels that refers to their own Board and could be removed.**

**[1]**

*Shall not be sited on active farmland.*

**The Board felt this was something they would definitely enforce and create more wording on.**

**[2]**

*Shall minimize impacts on active farmland including, but not limited to, fencing, use of waterways, obstructions created by placement of structures and/or overhead collection lines, division of larger fields into smaller or irregularly shaped fields, need for extensive areas of cut and fill, among other factors that create a burden or unreasonable impact on active farming activities.*

**[3]**

*Shall encourage siting on unproductive land and previously disturbed land to the greatest extent possible. All topsoil disturbed during construction shall be stockpiled and returned to the site.*

**David Ballard referenced the Town of Gray's specific definitions and felt that we also need to provide definitions. Matt read into the record as follows:**

**Solar Energy System, Ground-Mounted: A solar energy system that is structurally mounted to the ground and is not roof-mounted and is not attached to a building.**

**Solar Energy System, Medium-Scale:** A solar energy system that occupies between 2,000 and 16,999 square feet of surface area; surface area shall be measured by the total surface area of the solar collector at maximum tilt that occupies a given space.

**Solar Energy System, Large-Scale:** A solar energy system that occupies 17,000 square feet or more of surface area; surface area shall be measured by the total surface area of the solar collector at maximum tilt that occupies a given space.

**[4]**

*Shall locate access roads and overhead collection lines along the edge of agricultural fields in areas next to field boundaries and hedgerows and in nonagricultural portions of the site. The width of access roads shall be no larger than that required to meet the fire code. Access roads that are proposed to be constructed through agricultural fields shall be level with the adjacent field surfaces, where possible.*

**[5]**

*Shall demonstrate how the site shall be restored to its original state, including surface grade, soil, and vegetation, as part of removal of infrastructure and decommissioning.<sup>[2]</sup>*

**[2]**

*Editor's Note: Former Subsection B(2)(m)[5], which required the planting of certain kinds of plants between rows of solar panels, was repealed 5-3-2022 by Order No. 21-494-01. For current provisions, see Subsection **B(2)(j)** of this section. Order No. 21-494-01 also renumbered former Subsection B(2)(m)[6] as Subsection B(2)(m)[5].*

**(n)**

*A USS in the Residential Development Overlay Zone (RDO) shall require conditional use approval by the Planning Board in accordance with Articles **XIII** and **XVI** and the following standards:*

*[Added 11-23-2021 by Order No. 21-494-01; amended 5-3-2022 by Order No. 21-494-01]*

**Anne stated we could remove any reference to editor's note and n.**

**[1]**

*Shall not be sited on properties where public sewer and water services can be extended and a compact pattern of residential development can feasibly be developed in conformance with the purpose of the RDO Zone.*

**Matt stated this may present a question that if this applies to all residential zones, which opens commercial or industrial with less restriction so then residential zones are zoned residential for residents not solar. He stated that is just one aspect and they could look at**

**that more and what direction the Board is considering. Chairman Morse feels 2 below will protect any question regarding that.**

**[2]**

*Shall minimize impacts on nearby existing residential development and/or residential zones, including, but not limited to siting, fences, buffers, and/or screens.*

**[3]**

*Shall locate access roads and overhead collection lines to minimize impacts on nearby existing residential development and/or residential zones.*

**[4]**

*Shall demonstrate that stormwater, erosion control, and landscape plans maintain water quality and minimize export of sediment, phosphorus, and other contaminants from the site in support of the City's efforts to restore Goodall Brook by protecting the headwaters of Goodall Brook and vulnerable water bodies in its watershed.*

**Anne stated we could change to any body of water or wetland.**

Anne stated she would type this all up and email it to the Board Members for further changes or discussions. Matt stated these changes or proposals just need to be in draft form and give them something to present to the Board of Selectman. If the Board of Selectman may have other input, they can provide same.

Anne Whitten indicated that the issues that have not been discussed tonight are Scott's email to the Board and the MMA changes. Matt stated we would perhaps know more at the next meeting after Dwayne's meeting in Augusta today regarding the MMA changes. Chairman Morse stated we could bring these changes to the December 6, 2022 BOS meeting to let them review and comment.

Regarding Landscaping which the Board discussed at their last workshop, Scott Strynar indicated that the term vegetation was very vague and he feels when it comes to buffering, there needs to be more specific trees or plants and provide sizes. He also indicated that the Town needs more specific requirements regarding buffering especially in parking lots, condos and PUD's, etc. He feels the Town is lacking specific definitions and would like to see that more vegetation be put in place. Scott also mentioned shoreline zoning and buffering and there needs to be clarification in that area as we are very vague in that category. David Ballard agreed with Scott regarding this. Anne Whitten asked how we would implement this. Scott stated it would mostly fall under our road standards or parking lot requirements since street trees are not mentioned currently and that having landscape buffers would make it more specific and feels that Alfred or Biddeford could be a guide we could go by.

4. Other Business: N/A

5. Adjournment:

Mark Cahoon motioned to adjourn the meeting at 7:46 p.m. David Ballard seconded the motion.  
VOTE: 4-0

Matthew LeConte  
Planning Coordinator

Respectively submitted,  
Jennifer Berard, Stenographer



Chairman Jon Morse

Anne Whitten

David Ballard

Scott Strynar

Mark Cahoon

Scott Carpenter

Justin Perry