

**City of Newburyport
Planning Board
August 18, 2021
Approved Minutes**

The online meeting was called to order at 7:00 PM.

1. Roll Call

Planning Board Attendance: Alden Clark, Beth DeLisle, Anne Gardner, Bob Koup, Bonnie Sontag, Rick Taintor, and Don Walters

Absent: Leah McGavern and MJ Verde

Planning & Development Committee and Committee of the Whole Attendance: Heather Shand, Christine Wallace, and Barry Connell

Andrew Port, Director of Planning & Development, and Linda Guthrie, note taker, were also present.

Chair Bonnie Sontag opened the Planning Board meeting.

Chair Heather Shand opened the Planning & Development Committee meeting.

2. Joint Public Hearing with the Planning & Development Committee and Committee as a Whole

- a) Allow Wind energy Conversion Facilities (wind turbines) by Special Permit within the Old Route I-95 Right of Way / Access Road on the East side of present day I-95 (Assessors Map 94 Lot 3)*

Director Port demonstrated on a GIS map the old I-95 corridor. Although smaller sub-parcels abutting the current I-95 have restrictions and must be kept as open space, it's a large area. There's been discussion about increasing the City's net zero capabilities to generate its own electricity because the City tries to use renewable energy for municipal facilities. There's an order before the City Council about energy efficiency and reporting requirements to ensure municipal facilities are energy efficient. A permitting process before the ZBA would apply here as it does in the business park. The intent is to ensure the zoning doesn't preclude this area from any type of renewable energy generation. Flickering can be addressed during the application permitting process.

Councilor Barry Connell, amendment sponsor, said the land is currently subject to illegal partying and has pedestrian nature trails. Any clean energy development would have to respect the wetlands. It's an ideal parcel to demonstrate the City's commitment to clean energy, such as wind turbines. MA DOT does not have any objection to turbines located here. An alternative development is a photo voltaic field. The parcel is the same size as the PV installation on Rabbit Rd, but a different configuration. The City could solicit proposals from private developers by which the City could receive energy credits, or a monetary award, from a portion of the profits.

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Councilor Barry Connell said the proposal to rezone for exploring renewable possibilities would not be considered spot zoning as the adjoining properties are primarily wetlands, some industrial properties, and the state highway, but an opinion could be requested from KP Law before proceeding. He consulted with the town of Salisbury about any problems with their PV solar field and there are none. Newburyport is a Green Community. What better introduction to Newburyport is there than a clean energy project?

Public comment open.

Joe Texiera, 44 Hale St., Chair, Conservation Commission, supports expanding the City's green footprint but has concerns about this area. Most of the roadbed is within the 100 ft buffer. A significant percentage of that is within the 25 ft No Disturb zone because the Little River winds under the roadbed. He can't envision getting a lot of renewable energy without obliterating most of the trees at the exit there. The business park is a much better place.

Steven Moore, 10 No. Atkinson St., Vice Chair, Conservation Commission, said this area is the headwaters of the Little River and contributes to a lot of the flooding in the business park in heavy rains. Cutting a lot of trees will increase the water flow. The site is good for bird watching which renewable development would eliminate. The area is heavily used for walking and biking. People to the east on Morin Rd. would be subjected to flicker. Wind turbines in NH carry large warning signs for falling ice in winter. That would imperil snow shoeing and cross country skiing. The area would have to be fenced off completely. The Common Pasture is a better view to introduce Newburyport to a renewable development. It's not a great location.

Public comment closed.

Councilor Barry Connell said there is no intent to circumvent the authority of the Conservation Commission. He believes the protection of wetlands and the use of some adjoining property are compatible. He challenged the idea of snow and ice thrown from turbine blades. The Richey Woodworking turbine has had no problems since its installation. Examples from NH don't apply because NH has higher elevation and a different climate. In examining all possible locations, including other areas in the industrial zone, this location is most underutilized.

Planning Board Member Comments

Don Walters said the commentary on PV is somewhat moot because right now, solar facilities are permitted anywhere within the City. The proposal provides the option for wind turbines. He agreed that a turbine seldom shuts down. The issues are flicker and a low humming noise, but the ordinance only talks about significant flicker.

Anne Gardner said her concern is the negative potential impact on wildlife, the enjoyment of the trail use, and potential flicker for Morin Rd. residents.

Alden Clark asked about the minimum distance of 300 ft from a residential district. There were comments about that being too little. Renewable development could be quite limited if that was

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expanded to 1,500 ft, as one commenter suggested. That eliminates the entire area. Fencing off the area would block off the trails.

Rick Taintor said the Board should be looking for other places in the City to promote renewable energy. Turbines are complementary with agriculture. He suggested looking at the proposed ordinance more broadly, including, for example, huge farmland tracts that are not near wetlands.

Bob Koup said highway corridors are environmentally disruptive to begin with, and ideal for renewable energy because they are already isolated from residential areas. He supported taking a broader view and looking at the possibilities in more detail.

Beth DeLisle asked whether the wetlands are delineated on GIS parcels? Director Port displayed wetlands on the GIS noting the extensive wetlands. An area on the south end has uplands. Morin Rd. is about 300 ft away from the northern end. The question is whether zoning should preclude wind turbines here. A fair amount of open space in the City is not suitable for wind turbines. A small clean energy development of 1-3 turbines could go on the southern end. The developer could clean up the trail.

Bonnie Sontag said she was uncomfortable going forward without understanding the topography better. There are too many questions about where it's feasible to use wind turbines. She'd like to see where the blocks of trees are located and some dimensional information, as well as discuss the alternative distances mentioned in the comments.

General Discussion

Director Port displayed the location of Morin Rd in relation to the corridor.

Councilor Connell said there is a flaw in the existing statute that permits turbines concerning the diameter impacted by flicker. Flicker occurs primarily in the east and west access at particular times of day. North and south are not affected by flicker. He suggested a site walk with the Conservation Commission and the Planning Board.

Councilor Christine Wallace agreed with Chair Sontag about researching more information on site impacts, the wind turbine footprint, maintenance, and access roads. There's a large well-kept trail system on one side, and maybe perennial streams which require a buffer. She supported a site walk. This is a good exercise to find out where we do want turbines.

Councilor Heather Shand had heard about flicker many times in her ward. The City would need to ensure flicker does not impact neighbors. She supported a site walk and more research.

Director Port would prepare a site map and follow-up with KP Law on spot zoning.

Joe Teixeira would go on the site walk. There are perennial streams, and the 200 ft buffer does apply. There's a huge beaver swamp out there as well. An alternative site could be the hay fields on Hale St. The farmer might be willing to lease a portion of his land for wind turbines.

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Councilor Wallace asked if the City had been approached by developers for turbines in this area or would the city do an RFP to attract people if the proposal was approved.

Councilor Barry Connell said no one had approached the City. The Energy Advisory Committee (EAC) said the area is worth considering. He got the idea from T. Boone Pickens who leased a lot of land and put up thousands of wind turbines in West Texas where the soil is only good for cattle grazing. The ranchers benefit from the lease and the cows don't care.

Don Walters made a motion to continue the hearing on the proposal to Allow Wind energy Conversion Facilities (wind turbines) by Special Permit within the Old Route I-95 Right of Way / Access Road on the East side of present day I-95 (Assessors Map 94 Lot 3) to September 15, 2021, at the Senior Center. Alden Clark seconded the motion, and all members present voted in favor.

Motion Approved.

Christine Wallace made a motion to continue the hearing on the proposal to Allow Wind energy Conversion Facilities (wind turbines) by Special Permit within the Old Route I-95 Right of Way / Access Road on the East side of present day I-95 (Assessors Map 94 Lot 3) to September 15, 2021, at the Senior Center. Heather Shand seconded the motion and all members voted in favor.

Motion Approved

Christine Wallace made a motion to adjourn the Planning & Development Committee meeting. Heather Shand seconded the motion, and all members present voted in favor.

Motion Approved.

3. Other Business

*a) Minor Site Plan Review – 86-88 Prospect Street (2021-SPR-01)
Continued from 7/7/21*

Bonnie Sontag said the applicant went before the ZBA. There is added information.

Attorney Douglas Deschenes, Finneran & Nicholson, 30 Green Street, recapped the proposal. On 7/7/21, the Board granted the waivers requested and added special conditions for both replacing the street trees and providing an as built plan prior to occupancy, and for more landscaping. He demonstrated on plans two changes requested by the ZBA. An existing exterior door was added back into the proposal and a sliding glass door was replaced by 2 double-hung windows. The Demolition Control Overlay District (DCOD) wall removal calculations changed from 24.97% to 24.26%. He demonstrated on garage elevations the change from 3 bays to 2 bays, the removal of one garage window, and an added single exterior garage door. The proposed paver walkway on Prospect St. became a narrower steppingstone walk to make room for a larger landscaped area next to the building at the Board's request. The garage slid 2 feet away from the side lot line to

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make room for 2 cars to park alongside the garage. The garage will be split in the middle. The extra door gives both sides an exit.

Public comment open.

Public comment closed.

Rick Taintor said the small walkway across the front of the property doesn't seem to gain anything from the sidewalk and he's curious what the reason for it is.

Blake Wilcox, project manager, said the walkway is a shorter distance from the garage driveway to the house in case they're carrying groceries.

Bonnie Sontag asked why the garage is limited to only 2 bays. Blake Wilcox said the ZBA feedback was that it felt a little too big. He agreed.

Bonnie Sontag said the Board talked about requiring an as built plan for review prior to the occupancy permit.

Rick Taintor said Mr. Wilcox indicated providing as built is their standard process. It will confirm whether the applicant met the open space calculation per the ordinance requirement. They are replacing one or two street trees as well.

Bonnie Sontag asked how the finding pertaining to land use planning, specifically "add to the mix of uses," is applicable to the project. Attorney Deschenes said they will maintain a multi-family condominium, which provides another housing option to single-family and duplex homes.

Bonnie Sontag said the Board has no control over whether it's a rental or condominium, but it's not helpful for the City to lose rental property. She asked for comments on the findings and performance standards.

Rick Taintor said the findings refer to requests by the applicant in a couple of places. Is that appropriate since the waivers have been granted? Those sentences can be deleted along with the sentence on adding to the mix of uses because they don't add anything to the Board's decision. Director Port concurred.

Rick Taintor made motion to approve the Minor Site Plan Review Application for 86-88 Prospect Street in accordance with the draft findings and draft Special Condition relating to street trees provided by the Office of Planning and Development, with amended findings and performance standards, as discussed. Alden Clark seconded the motion, and five members present voted in favor. Bob Koup and Anne Gardner abstained.

Motion Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments

and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

b) Request for extension – 36 Colby Farm Lane (2019-SPR-01)

Josh Lariscy, Blue Wave Solar, 501 Boylston St., Boston, said they continue to work on firming up an engineering, performance, and construction (EPC) contract but there have been delays over the last year and a half. They have not broken ground nor applied for a building permit but hope to do that in the coming months when fully engineered construction drawings are completed.

Don Walters asked, since no action had taken place, doesn't this permit expire 14 months after the original expiration date. Director Port said the permit is valid for 2 years.

Don Walters read, "On 8/7/19 the Planning Board voted to approve the application for the Major Site Plan Review, whereas the approval itself was granted on 10/16/19. The one year extension term will be from 10/16/19 to 10/16/22." How does the tolling provision impact this?

Director Port said the tolling is a complication. Staff discussed that there was benefit to being specific about the date in the vote for the extension versus the tolling itself. This is really an extension for 10/16/21 to 10/16/22, a one year extension on the current permit.

Don Walters made a motion to approve the extension to the Site Plan Approval decision for 36 Colby Farm Lane for one additional year to 10/16/22. Rick Taintor seconded the motion and six members voted in favor. Anne Gardner abstained.

Motion Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

c) Request for lot release – Port Village Lot 22 (8 Dorothy Lucey Drive)

The applicant was not present. Director Port displayed the GIS of the lot and the subdivision plan for reference. He said all other lots in this older subdivision have been reviewed and released. The required easement for public access is recorded. The Office is not aware of any outstanding issues and has no objections to the lot release.

Anne Gardner made a motion to approve the request for Release of Covenant for Port Village for Lot 22 and authorize the Planning Board Chair to sign the related Release of Covenant. Alden Clark seconded, and all members voted in favor.

Motion Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

d) Approval of Minutes

Beth DeLisle made a motion to approve the minutes of 7/21/21 as amended with minor edits. Alden Clark seconded the motion, and all members present voted in favor.

Motion Approved.

e) Other updates from the Chair or Planning Director

Bonnie Sontag said meetings going forward will be hybrid, a mix of in-person and Zoom. Director Port said there may be some additional discussion if things change, but for now we'll begin hybrid meetings at the Senior Center on 9/1/21. There are some future conflicts with availability where we will meet exclusively on Zoom.

Bonnie Sontag asked about masking for in-person meetings. Director Port said masking requirements would be determined in the coming days.

Bonnie Sontag said any Board member has the option to participate by Zoom or attend in-person. The meetings will be streamed live on cable.

Anne Gardner is stepping down effective October 1.

Rick Taintor's Storm Surge presentation on Zoning and Resilience is at 7 pm on 8/31/21 at the Senior Center, followed by a panel discussion that includes Director Port, Jen Hughes from the Merrimack Valley Planning Commission), and Nick Cracknell, Principal Planner for the City of Portsmouth, and planning consultant, who will look at historic districts.

5. Adjournment

Rick Taintor made a motion to adjourn. Alden Clark seconded the motion, and all members present voted in favor.

Motion Approved.

Meeting adjourned at 8:38 PM

Respectfully submitted -- Linda Guthrie