

EAST LONGMEADOW PLANNING BOARD

Date: March 10, 2020

Time: 6:00 PM

Place: School Committee Conference Room

East Longmeadow High School, 180 Maple St., East Longmeadow, MA

MINUTES

Chair Russell Denver opened the meeting at 6:00 PM and called the roll.

CALL THE ROLL

Present: Russell Denver, Chair

George Kingston, Vice Chair

Tyde Richards, Clerk

Jon Torcia

Absent: Peter Punderson

Staff Present: Constance Brawders, Planning & Community Development Director;
Bethany Yeo, Planning & Community Development Administrative Assistant

APPROVAL OF MINUTES

February 4, 2020

Motion to approve the minutes of February 4, 2020 made by Vice Chair George Kingston; second by Board member Jon Torcia and approved by a vote of four (4)-zero (0).

February 18, 2020

Motion to approve the minutes of February 18, 2020 made by Vice Chair George Kingston; second by Board member Jon Torcia and approved by a vote of four (4)-zero (0).

CONTINUED PUBLIC HEARINGS:

- 1. Case SITE 2019-11: Ground Mounted Solar Facility** – Request by applicant for the installation of a 4 Megawatt ground mounted solar facility at Rear Pease Road (Assessor's Parcel ID 33-1-0) located on a 21.26 +/- acre site in the Residence AA zoning district. Applicant: Steve Broyer, PLH, LLC, 222 South 9th Street, Ste. 1600, Minneapolis, MN 55402. (Cont. November 19, 2019; December 3, 2019; December 17, 2019; January 21, 2020; and February 4, 2020).

Clerk Tyde Richards read the legal ad into the record. The suspended hearing was reopened.

Representing the applicant was Attorney James Martin [Robinson Donovan, P.C., 1500 Main Street, Suite 1600, Springfield, MA 01115]. Atty. Martin was accompanied by Steve Broyer [PLH, LLC 22 South 9th Street, Ste. 1600, Minneapolis, MN 55402].

Planning Director, Constance Brawders, was asked by Chair Denver to report on the applicant's petition for variance to the Zoning Board of Appeals considered at the ZBA's March 9, 2020 public hearing. Brawders summarized for the Planning Board that the Zoning Board of Appeals granted the petition for Variance for frontage reduction from 175 feet to 0 feet by a vote of four (4) to one (1) with the following contingencies.

1. That the petitioner enters into a written inter-municipal agreement for mutual assistance between the respective the communities' departments of public safety and that this documentation from CT and MA be provided for Planning and Community Development department files;
2. That the Site Plans approved by the Connecticut Siting Council for the CT phase of the development be revised to show the extension of the solar array service road into the East Longmeadow parcel. Revised plans shall be provided to the Planning and Community Development department files;
3. That the service road be constructed to standards that will satisfy East Longmeadow's Departments of Public Safety and the East Longmeadow Department of Public Works. A letter from these respective departments shall be provided to the Planning and Community Development department files;
4. That a memo be provided for the Planning and Community Development department files from the East Longmeadow Chief of Police stating project site conditions have been met, as they pertain to the Police Department;
5. That the DRAFT copy of the deed restriction or easement be provided for review and approval be provided to ZBA Chair Mark Beglane by the applicant. Final documents are to be provided for the Planning and Community Development department files.

The hardship indicated for granting the variance petition is one, being the shape of the land parcel, which is crossed by a state line. The state line creates a landlocked area, and if not for the border line separating Somers, CT and East Longmeadow, MA, the parcel would otherwise have adequate frontage from the Somers, CT portion of the land which meets the East Longmeadow length of frontage required under the Zoning Bylaw for East Longmeadow for the proposed use.]

Planning Board member Jon Torcia informed the Board that he had also attended the ZBA hearing.

Atty. James Martin stated his client had no issues with the conditions stipulated by the Zoning Board of Appeals and stated he believed he and his client were ready for a vote from the members of the Planning Board.

Further discussion ensued. Planning Director Constance Brawdars described the 14 day timeline allowed by statute for processing a Variance and lapse of a 20 day appeal period; she recommended that the Board continue Site Plan Review until the appeal period lapses so the Variance may be certified [by Town Clerk] and recorded at the Hampden Registry of Deeds [approximately 35 days from the close of a hearing].

As a [land] developer, Clerk Tyde Richards stated he was leaning against taking a vote on Site Plan Review this evening and opined he would prefer to continue the matter until the Variance appeal lapsed. Atty. James Martin reminded Clerk Richards that he is voting on the Site Plan Review, not the Variance. Atty. Martin asked if Clerk Richards could clarify his concern with approving the Site Plan design. Vice Chair George Kingston interjected a concern asking what might occur if the Planning Board approved the Site Plan Review contingent upon the Variance decision and then the Variance decision

was appealed. Atty. James Martin stated if the Variance decision is appealed, that is a risk the applicant takes, as the applicant could not be granted a building permit.

Chair Russell Denver opined approving the Site Plan Review prior to lapse of the Variance appeal period seemed to be putting the horse before the cart. Chair Denver urged the board to tie up all loose ends, as the matter was still an issue in front of the Land Court [as a summary judgement review].

Planning Director Constance Brawders consulted the Zoning Bylaws for process concerning concurrent applications [such as a Variance granted by the ZBA and Site Plan approval granted by the Planning Board].

A five minute recess for review of the Zoning Bylaw was called by Chair Russell Denver with motion by Vice Chair George Kingston and second by member Jon Torcia.

Brawders suggested the language for concurrent approval could be interpreted under the Town of East Longmeadow Zoning Bylaws Article 7.4 Site Plan, Section 7.45 Administration: *...Approval may be made subject to conditions, modifications and restrictions as the Planning Board may deem necessary; and any construction, reconstruction, alteration or addition shall be carried out only in conformity with such conditions, modifications, or restrictions and in conformity with the application and site plan.*

Planning Director Constance Brawders cautioned the Board against approving the Site Plan Review prior to certification that no appeal was made against the Variance. She indicated some applicants choose to take a chance on starting construction during the appeals period and beg for forgiveness after the fact.

Chair Russell then asked for public comment. No comment was made by the public in support or opposition to the application.

Chair Russell Denver then asked the Board for a motion to close the public hearing.

Vice Chair George Kingston cautioned against closing the public hearing, as that would prevent the Planning Board from considering any new testimony or satisfaction of the conditions for approval for the Variance. Atty. James Martin objected to the continuance and opined the Zoning Board of Appeals is not a party to this Planning Board's hearing. Vice Chair George Kingston responded that the only reason the Planning Board was able to consider Site Plan approval on zero frontage lot was by Variance. Furthermore, there were conditions for the Variance that remained to be satisfied. Clerk Richards concurred with the Vice-chair.

Board member Jon Torcia stated he was wrestling with the issue as a matter of precedent and risk that could be assumed by the applicant, should the Planning Board approve the Site Plan and the ZBA decision be appealed.

Motion to continue the public hearing until March 24, 2020 made by Vice Chair George Kingston; second by Board member Jon Torcia and denied by a vote of three (3)-one (1).

Atty. James Martin stated for the record that he and his client strongly objected to the continuance while waiting for the Variance appeal period to pass and found it an unreasonable delay and of questionable legality.

Motion to close the public hearing made by Vice Chair George Kingston; second by Board member Jon Torcia and approved by a vote of four (4) - zero (0).

Motion to approve SITE 2019-11 subject to conditions that were also requested by the Zoning Board of Appeals, made by Vice Chair George Kingston; second by Board member Jon Torcia.

Board member Torcia asked for clarification by the Chair in the event of a tie vote, to which Chair Denver replied the motion would fail.

Russell Denver:	NAY
Tyde Richards:	NAY
George Kingston:	YES
Jon Torcia:	YES

Motion failed by tie vote two (2)-two (2).

OTHER BUSINESS

2. Discussion of DRAFT Planning Board Annual Report to be submitted to Town Manager 03-16-2020

Planning Director Constance Brawders asked that the Planning Board members verify she had correctly noted their additional appointments to other committees in the Planning Board Annual Report. Brawders also cited the number of applications received by the Department Planning and Community Development and amount collected in fees.

Next, Chair Russell Denver asked Planning Director Constance Brawders to provide an update on the Solar By-law which is in place until October 22, 2020. Planning Director Constance Brawders highlighted the work of the Large Solar Working Group, driven by Pioneer Valley Planning Commission. The objective is to review and discuss other municipal ground mounted photovoltaic bylaws and ordinances, examine court cases, share experience with solar development to craft a model solar bylaw [in response to the solar development incentive Smart program introduced by the state] that municipalities may use to introduce or update a current bylaw/ordinance. Planning Director Constance Brawders stated the committee goal is to complete the task by June 2020. Regarding the moratorium proposed by the Planning Board to Town Council last October, Brawders stated the ball sits in Town Council's court as they must hold a public hearing regarding the solar moratorium. Chair Russell Denver inquired if Town Council was aware of this. The Planning Director confirmed that they had been reminded.

Motion to take agenda Item 4 out of order made by Vice Chair George Kingston; second by Board member Jon Torcia and approved by a vote of four (4)-zero (0).

3. Update to Mixed Use Zoning

Case: ZN 2019-01 - Mixed Use District: Petition by Applicant, M & A Longmeadow, LLC, to amend the Zoning By-law by adding a new zoning district for Mixed Use and to change the Zoning District Map for the Town of East Longmeadow. Applicant's agent: Atty. Jane L. Mantolesky, Fitzgerald Attorneys at Law, PC, 46 Center Square, East Longmeadow, MA 01028.

Case: ZN 2019-02 - 330 Chestnut Street: Petition by Applicant, M & A Longmeadow, LLC, consider a zoning change at 330 Chestnut Street (Assessor's Parcel 18-38-0), a 40.35+/- acre site, from the Industrial Garden Park zoning district to a Mixed Use zoning district. Applicant's agent: Atty. Jane L. Mantolesky, Fitzgerald Attorneys at Law, PC, 46 Center Square, East Longmeadow, MA 01028.

John Taikina [M + M Realty Partners] apprised the Planning Board on the status of the proposed bylaw amendment. Clerk Tyde Richards expressed reservation regarding the use of an introduction of a storage facility to meet the commercial percentage of the mix of uses under the proposed by law, as this lent no excitement or vitality to a mixed use project. Planning Director Constance Brawders reported that the sub-committee will forward the draft to the Town Attorney for review before returning it to Town Council and the Planning Board for a joint public hearing [as the draft by-law has changed in substance]. Vice Chair George Kingston inquired when the date of the joint public hearing would be. Planning Director Constance Brawders stated the date had yet to be determined. Mr. Taikina stated his appreciation for the thorough review of the draft by-law by the subcommittee and stated he got the distinct impression from the sub-committee that they were hoping to conclude the matter in April 2020.

4. Discussion of amending TABLE 3-1 EAST LONGMEADOW SCHEDULE OF USE REGULATIONS to include self-storage sites

Vice Chair George Kingston reported his finding that the East Longmeadow Schedule of Use Regulations currently excludes self-storage use and offered to conduct research on the matter for the Planning Board to review. Vice chair proposed a definition and updated regulations for site plan review for self-storage

5. Discussion of Model Subdivision Regulations prepared by the Pioneer Valley Planning Commission with introduction of Kenneth Comia, AICP, PVPC Senior Planner, Land Use & Environment Section

Mr. Comia provided materials to the Board introducing the Model Subdivision Regulations prepared by the Pioneer Valley Planning Commission. The Powerpoint prepared by PVPC may be viewed [here](#). Vice Chair George Kingston suggested the establishment of a sub-committee to compare and contrast East Longmeadow's current subdivision regulations with PVPC's model subdivision regulations and identify areas for improvement. Further discussion will take place at the April work session.

6. Discussion of the introduction of a Town Center Zoning District.

Planning Director Constance Brawders stated further research on the matter was required and suggested the discussion be continued to the April 7, 2020 Work Session Agenda meeting. Vice Chair

George Kingston stated the Town Center Zoning District was mentioned in the Enhancing East Longmeadow Report.

7. Planning and Community Development Director's Report

- Eversource Photovoltaic Installation-175 Denslow Road: Annual Report

Planning Director Constance Brawders briefed the Planning Board on the Annual Report provided for Eversource Photovoltaic Installation at 175 Denslow Road.

- Pros & Cons regarding use of The Republican or The Reminder for Legal Notice publication

Planning Director Constance Brawders explained the pros and cons of each newspaper. She inquired if the Board would like to switch from the Republican newspaper back to the Reminder for legal advertisements.

Talking points: The Republican has more flexibility for publication dates; however, the daily paper is more expensive; human and technical errors have occurred leading to error and omission in legal advertisement. The Reminder is less expensive; however, strict deadlines for applicants and town staff are imposed. The local weekly has also demonstrated human and technical error in the past with errors and omissions in legal advertisements. Clerk Tyde Richards opined, as a developer, he would want the Republican as it offers flexibility in advertising, despite the expense. The Board concurred and agreed to support the continued use of The Republican.

- 2020 MA Open Space Conference – Saturday April 25, 2020 at Greenfield community College

Planning Director Constance Brawders invited Board members to attend the free MA Open Space Conference. However, advised it may be cancelled given the current health concerns with COVID-19.

8. Review and Acceptance of Revised Site Plan Review Application Form

The Board approved the revised Site Plan Review Application Form.

ADJOURN: Motion to adjourn made by Vice Chair George Kingston; second by Board member Jon Torcia and approved by a vote of four (4)- zero (0) at 7:36 PM.

DATE OF NEXT MEETING

The next scheduled meeting of the Planning Board is March 24, 2020.

Tyde Richards

Tyde Richards, Clerk

5-20-2020

Date