

Minutes of Planning Board Meeting  
Town of Whately, MA  
The meeting was held virtually via Zoom.  
August 31, 2021

Members Present: Don Sluter, Judy Markland, Sara Cooper, Tom Litwin, Brant Cheikes  
Members Absent: none

I. Call to Order, 5:00 p.m.  
The meeting was recorded.

II. Judy reported on her meeting with the Agricultural Commission  
Judy attended the meeting to discuss the Resource Replacement Fee that was established for the Solar Bylaw. The Agricultural Commission hadn't yet appointed their delegate to the Resource Replacement Fee Advisory Committee. They have now appointed John Devine, so the membership is complete (with George Owens as the delegate from the Conservation Commission, Judy from the Planning board, and Joyce Palmer-Fortune from the Selectboard).

Judy described a Daily Hampshire Gazette article about development in Hadley that mentioned "transfer of development rights". Under Hadley's system, people can get increased density for building projects if they then contribute to a fund to purchase conservation restrictions land somewhere else in town, and this is the main way they have funded their APRs and some Conservation Restrictions on Mount Holyoke. The goal is similar to that of Whately's Resource Replacement Fee. Judy will try to find out how they set the price on the development rights.

Also discussed was the Floodplain Overlay District. The Agriculture Commission members contributed pragmatic questions like whether the rules would apply to maintenance, and also suggested finding a way to speed up the filing process, such as listing items according to which do not need a review and which do (including what kind of review and by whom). Margaret Christie will talk to Scott Jackson, of the Conservation Commission, and Peggy Sloan, of the Franklin Regional Council of Governments (FRCOG), for additional information about how the system will work. Judy noted that work on this matter will not go quickly and will not be finished in time for the Special Town Meeting.

II. Update on floodplain bylaw and discussion of next steps toward adoption with Peggy Sloan of FRCOG

The Board reviewed draft 3 (bearing Town Counsel's suggested edits) of the document titled,  
Town of Whately  
Proposed Floodplain Overlay District Bylaw to replace the current  
Section ~171-26. Flood Hazard Overlay District Regulations

The discussion included these points:

- Most of the changes Town Counsel wants to make are to the state template's language.
- Page 4, Section I: Judy will write new wording to the effect that the Planning Board will keep the Floodplain Overlay District Bylaw requirements in mind as it performs its usual Site Plan Review tasks.
- The Floodplain Overlay District Bylaw will require a lot of public education once we have the necessary practical information, which is entirely missing at this point.
- Judy will send the draft 3 document with Town Counsel's comments to Peggy Sloan. Once Peggy, Scott Jackson, and the Agricultural Commission get together and discuss the proposed new bylaw, we may have some of the practical examples we need of bylaw particulars that the public needs to know about.
- This discussion is ongoing.

#### IV. Discussion of large-scale solar setbacks for commercial/industrial properties.

Don said that someone is interested in installing a solar panel power generation facility in town, that the bylaw says they need a 100 ft setback, but that they say they need a setback of only 50 ft to make it worth their while. Don told them the Planning Board is not in favor of changing the rules to suit an applicant. He also told them that the Zoning Board of Appeals has the ability to waive the requirement and might agree to do so after studying the situation. The company replied that they did not want to risk filing a ZBA application that might be denied. Instead, they asked Don to suggest changing the bylaw to reduce the setback requirement to 50 ft. in the commercial and commercial/industrial zones. Don said he told the interested party that the Planning Board would discuss the situation.

Judy said that she is uncomfortable doing anything about this because the setbacks were increased specifically at the public's request and were one of the main things that they wanted. Brant asked for a definition of what a setback is meant to accomplish. Don indicated that setbacks mostly exist to hide objectionable views, adding that a solar power facility view may not be as much of a problem in the commercial/industrial zone. Brant argued that if this is a discussion in the abstract, about setback changes that would apply to all properties in the commercial/industrial zone, then if we change they setback requirement from 100 ft to 50 ft, people who had respected the 100 ft requirement would be allowed to expand by 50 ft. Judy agreed (assuming there are any such landowners in that zone). Judy reminded everyone that this matter only involves the Solar Bylaw, and that people object to more than just the view – they also worry about pollution, noise, and fire. Also, there are other lots in Whately where this could come into play; we should consider how this proposal could affect them as well. Tom asked whether there is any driver for this discussion besides the applicant. It was noted that the only plus for the town is that we have considered solar power to be a good thing.

Judy suggested that Don's answer to the interested party could be that the Board has discussed it and feels that the pressure from the town to expand the setbacks was such that they are not comfortable taking a setback reduction proposal to Town Meeting so soon. Brant said he could agree to that, but also volunteered to look at other towns' setbacks and solar bylaws and report back, adding that Don can tell that to the interested party, too.

Judy favored Brant's idea, stating that most other towns have solar overlay districts which are the only areas where solar power facilities can only be built (generally in parts of town where they will be less obtrusive). That may be more relevant in the commercial/industrial zone than in our other zones, she said. Sara noted that Whately is more rural than much of the state and its people are used to having larger setbacks. Brant agreed, and will only check within western Massachusetts (excluding cities).

V. Approval of minutes

The minutes of March 16, 2021 were approved unanimously when Judy, Don, Tom, Brant, and Sara each voted Yes.

The minutes of April 13, 2021 were approved unanimously when Judy, Don, Tom, Brant, and Sara each voted Yes.

The minutes of May 25, 2021 were unanimously approved as amended when Judy, Don, Tom, Brant, and Sara each voted Yes.

For the September meeting, the secretary will send the board a spreadsheet showing the status of remaining minutes, complete the amendments to five sets of minutes that have been "approved as amended" and send them to be posted, and send the board drafts of this year's remaining minutes. Brant will check into activating Zoom's audio-to-print transcription service to assist in future confirmation of meeting details for minutes.

VI. Adjourn

At 6:55 pm Brant moved to adjourn and Don seconded the motion. Don, Judy, Tom, Sara and Brent each voted Yes, and the meeting was adjourned unanimously.

Documents Reviewed (kept in the Planning Board files)

1. Draft 3 of Peggy Sloan's document:

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Proposed Floodplain Overlay District Bylaw to replace the current  
Section ~171-26. Flood Hazard Overlay District Regulations

Mary McCarthy  
Secretary, Planning Board  
Town of Whately, MA