

Minutes of Planning Board Meeting  
Town of Whately, MA  
Town Offices, 4 Sandy Lane  
December 3, 2019

Members Present: Don Sluter, Nicholas Jones, Judy Markland, Sara Cooper, Tom Litwin  
Members Absent: none

Attending:

Nathaniel Fortune, Energy Committee, 152 Westbrook Rd.  
Joyce Palmer Fortune, Chairperson, Selectboard  
Donna Wiley, Chair, Historical Commission, 184 Chestnut Plain Rd.  
Bob Smith, Zoning Board of Appeals, 303 Long Plain Rd.  
Pete Westover, 170 Long Plain Rd.  
Fred Baron, Finance Committee, 120 North St.  
Gretchen Bechta, 139 Christian Ln.  
Michael Bechta  
Fred Orloski, Selectboard, 154 Christian Ln.  
Jonathan Edwards, Selectboard, 16 Swamp Rd.  
Peggy Sloan, Franklin Regional Council of Governments  
Brian Domina, Town Administrator  
Monserrat Archbald, Conservation Commission  
Margaret Christie, Agriculture Commission

I. Call to Order, 6:35 p.m.  
The meeting was not recorded.

II. Approval of Meeting Minutes  
Minutes of October 29, 2019  
Nicholas moved to approve as amended, Judy seconded, and the board voted unanimously to approve the minutes as amended.

Minutes of November 12, 2019  
Judy moved to approve as amended, Tom seconded, and the board voted unanimously to approve the minutes as amended.

III. Old Business  
Multi-board Discussion of Solar Energy and Zoning

Handouts were made available to all who wanted them, including the single page "Planning Board's Discussion Outline for Revisiting Whately's Solar Bylaws", dated November 2019; the 8-page "Town of Whately Solar Zoning Bylaw" material; and a 3-page letter from the Planning Board of the Town of Carver, MA, to the Carver Town Clerk.

2.

Nicholas Jones began by saying that, knowing the importance of enabling renewable energy production, the Planning Board had designed solar-company-friendly bylaws. Maybe, he said, we are now being targeted by the companies due to overly lenient rules. If so, he asked, how can we change them?

Judy Markland explained that the board thought it had protected agricultural and open space by calling for minimal impact on sites, and had thought that people would locate the first solar power generation projects on gravel banks and non-productive soil. Now, she said, project locations have included more productive land. She noted that Whately has lots of flat land so forested land hasn't been much affected yet. Now, she said, sites are gone in eastern Massachusetts, so the state is changing regulations in order to send more projects to western Massachusetts. Also, she noted, land is cheap here compared to land in eastern Massachusetts, and Whately doesn't restrict solar location as much as other towns.

The discussion that ensued included the following comments, questions, and opinions:

Jonathan Edwards: Companies can do whatever they want because there are no repercussions.

Margaret Christie: Why are there not solar panels on rooftops over all parking lots? That seems to be an obvious but overlooked option. (The board responded that it's expensive and the roof area involved is not normally big enough to be profitable.)

Peggy Sloan: After the state adjusts the regulations, will it still be more attractive to build on farm and forest land? Some towns regulate acreage size by instituting caps and by excluding prime agricultural land.

J. Markland: Future projects are likely to include battery storage, and the battery will need its own decommissioning bond.

Fred Orloski: We need more protection, visually, than a distance of 400' from the street. Houses with insufficient screening may be hard to sell. The solar field near Mr. Orloski's house is badly screened, but other town solar projects have been better screened. Panel heights of 10', 12', and 15' may be too high.

Michael Bechta: At the solar array across from his house, Mr. Bechta's dog cut his paw on the metal and wiring that had been left lying around the site. Mr. Bechta was also told that someone could have been electrocuted by a ground wire left above ground. He noted having had to badger the utility company to get this fixed. (J. Markland asked Mr. Bechta to write an account of the situation and send it to the Planning Board.)

J. Edwards: Those involved in solar projects include the developer, the utility and the stakeholders, which include the property owner. Property owners sometimes sell their property, but sometimes they lease it and they should be held partly responsible for the behavior of their tenants.

Donna Wiley: Are we prepared to accept more of these projects at all? We have limited space; are there more sites that are better suited?

- Fred Baron: How much do we want more big solar? Should we have a six month moratorium on solar projects while we figure it out?
- N. Jones: Can we legally do that?
- P. Sloan: Check with town counsel. Also, Town Meeting would have to approve it.

J. Markland: We originally thought that solar on 7-8 acres, to help save the rest of the farm, is a good thing. Also, solar is removable. One reason we didn't do overlay is that it's hard to decide that farmer X gets to do it and farmer Y doesn't. How do you decide that?

J. Edwards: We can't be NIMBY about solar – we don't want the worse kinds of energy generation.

- Tom Litwin: Why should solar be different from other things? We already have land regulations for what can go where.
- M. Christie: Solar is different because we desperately need renewable energy.

D. Wiley: We have an industrial park. Could we offer incentives to use the rooftops for solar?.

- J. Markland: That isn't a zoning issue. Perhaps appropriate for the tax assessors, as a tax abatement.

F. Baron: How about giving the Planning Board and the ZBA more discretion to deny projects from the outset? The ZBA did deny the North Street project.

- B. Smith: That project would have been below the road level. With everyone looking down on it, it couldn't be effectively screened. Plus, the denial of the requested variance made the project impossible for the developer.

P. Sloan: Setbacks can be adjusted to be more, depending on the site.

J. Edwards: People don't even agree on what farms are "good".

- M. Christie: We could identify them by using soil classifications.

M.. Christie: With climate change, we need to produce more food here. Regarding food grown under solar panels: the UMass research site for this is tiny, and the research on growing food under panels is still limited.

- Nathaniel Fortune: The town of Carver has solar installed over the bogs to try to save the cranberry farms.

A comment was made that cutting down forests will reduce carbon sequestration.

D. Wiley and T. Litwin agreed that we must consider the climate repercussions.

- Monserrat Archbald: If we can write a bylaw to prevent people from clear cutting forest for solar, we should.

M. Bechta: Four of these projects are on Christian Lane, making it a solar dump. Should we rule that the next project must be done outside an X-radius zone from each existing project? Also, we should review the installations done already. Nexamp lied about underground utility lines being an option; maybe we should consider this breach of contract.

- J. Edwards: The utility poles look even worse than the panels.
- B. Smith: Can we have the building inspector send a "cease and desist" order, meaning "do not bring the plant online"?
- Brian Domina: That is hard to do if we don't have it in writing – if we can't prove it.

- J. Edwards: There's no cause when you sue for damages. It would put us on record re: lying and promises.

D. Wiley: What about the annual reports? Are they doing them?

J. Markland: Two projects aren't yet operational so they don't have to. In the future, perhaps we could have developers pay for an engineer to oversee their projects.

T. Litwin: Unfortunately, we need to have "victims" in order to show the badness of a project.

P. Sloan: The town can send a letter to town counsel listing the complaints against Nexamp.

B. Smith: In the future, we could cap the percentage of the lot that can be used for the project – cap the size.

M. Bechta: Maybe we could have access to the solar farm solely through the property of the owner, not by easement over someone else's property. We could also have a common driveway and make a frontage requirement, with a setback requirement to buffer the neighbors.

J. Markland asked P. Sloan to send the Planning Board the Buckland language.

D. Wiley: The Historical Commission is already working with Town Administrator Brian Domina and Highway Superintendent Keith Bardwell on proposed bylaw changes re: scenic views and roads.

N. Jones asked Peggy Sloan for suggestions about how to zone for scenery.

P. Sloan: 1. Create viewsheds (she recalled Whately did something that includes tobacco sheds).  
2. Wording for setbacks could specify, *at least* x distance (but possibly greater than x).  
3. Work with a landscape architect.

F. Baron: If we get no annual reports and if the plant is not online after a year, we could deny the right to start it up, under the abandonment clause.

J. Markland: In the future, we need to document more in the conditions.

D. Wiley reminded to plan incentives for industrial zone companies to install roof solar.

F. Baron reminded to check on having a six-month solar project moratorium.

- J. Palmer-Fortune: The select board has thought of starting a municipal solar project, and a six month moratorium would send the wrong message and chill those plans.

Sara Cooper: We haven't yet touched on battery storage and aquifer overlay issues – maybe we need a moratorium to study those.

- N. Fortune: Solar battery storage is actually needed. It reduces the need for dirtier types of storage and helps prevent brownouts. A moratorium would be a good way to get *that* done right. Mr. Fortune noted that he has a solar panel field in his own backyard, saying that we can't have agriculture – or food – without a stable climate, so we need to do solar right.

N. Jones: We need information on the positives as well as the negatives of battery storage.

5.

- J. Palmer-Fortune noted that at a meeting, she'd seen someone from UMass who'd be a good resource for that.

N. Jones asked J. Palmer-Fortune and N. Fortune how they feel about a limit on project size (maybe ten acres)

- J. Palmer-Fortune: No, 10 acres seems arbitrary.
- N. Fortune: We could find out how much energy Whately uses and produce a percentage of that here. We should be able to flex the size according to the site – long, narrow, out of sight, or prime farm land.

At 8:43 pm the discussion ended.

IV. At 8:45 the board voted to adjourn.

*Documents Reviewed (kept in the Planning Board files)*

1. A single page document titled, "Planning Board's Discussion Outline for Revisiting Whately's Solar Bylaws", dated November 2019
2. 8 pages of "Town of Whately Solar Zoning Bylaw" material
3. A 3-page letter from the Planning Board of the Town of Carver, MA, to the Carver Town Clerk.

Mary McCarthy  
Secretary  
Planning Board  
Town of Whately, MA