

Minutes of Zoning Board Meeting
Town of Whately, MA
Town Offices, 4 Sandy Lane
February 6, 2020

Members Present: Roger Lipton, Bob Smith, Debra Carney, Kristin Vevon
Members Absent: Fred Orloski

Attending:

Tony Wonseski, SVE Associates, Brattleboro, VT; Mark Stadnicki, SVE Associates, Brattleboro, VT;
Julie Beauchemin, Nexamp, Inc. 101 Summer St., Boston; Jack Curry, , Nexamp, Inc. 101 Summer St.,
Boston; Ann F. Lomeli, 7 Claverack Rd.; Pete Gauthier, 48 Tipping Rock Rd., Westhampton;
Paul McEnany, 86 Bald Mountain Rd., Bernardston; Jennifer Kellogg, 163 Chestnut Plain Rd.;
Christopher Kellogg, 163 Chestnut Plain Rd.; Adam Kellogg, 163 Chestnut Plain Rd.;
Ross Kellogg, 163 Chestnut Plain Rd.; Tom Chamutka, 147 Christian Ln.;
Sara Cooper, 147 Christian Ln.; Jon Lavallee, 171 State Rd.; Amy Lavallee, 171 State Rd.;
Tom Litwin, 141 Chestnut Plain Rd.; Jane Grybko, 213 Christian Ln.; James D. Ross, 177 State Rd.;
James N. Ross, 236 Haydenville Rd.; Emma Golonka, 6 State Rd. / 178 Chestnut Plain Rd.;
John Ogletree, 178 Chestnut Plain Rd.; Katherine Ross, 236 Haydenville Rd.;
Martha Goodridge, 113 Chestnut Plain Rd.; Julia and Ed Berman, 60 Masterson Rd.;
Catherine Futter, 152 Chestnut Plain Rd.; Shelley Futter, 152 Chestnut Plain Rd.;
Catherine Wolkowicz, 161 Chestnut Plain Rd.; Meredith Morrison, 168 and 186 Chestnut Plain Rd.

Public Hearing for

Application for a special permit to build a 1.3 megawatt DC Large Ground-Mounted Photovoltaic and
Battery Storage Facility on approximately 15.5 acres located in the A/R 1 and A/R 2 zones at 164
Chestnut Plain Road and owned by Robin M. McGuffey and Dana A. McGuffey.

Ann Lomeli asked the board for permission to record the meeting and Chair Roger Lipton granted it.

The secretary read the legal notice and the applicant approved it.

Ann Lomeli asked the board to consider that the applicant committed a procedural violation by failing to notify the abutters in a timely manner that it had filed a Notice of Intent for this project with the Conservation Commission. She explained that although the Notice was filed in November and the Conservation Commission meeting was scheduled for November, she didn't receive her abutter's copy of the notice until this week. This left her with two months' less time to learn about plans for the project and prepare for tonight's Special Permit hearing, she said, adding that this is a due process issue for her. Tony Wonseski, of SVE Associates, replied that the Wetlands Protection requirements are different from those of the Zoning Board of Appeals and Planning Board. He acknowledged failure to notify the abutters at the time but noted that although he arrived for the scheduled Conservation Commission meeting, that meeting was never opened due to some confusion on the part of the companies. He stated

that they are following the correct procedures a month late, with the Conservation Commission meeting now set to take place on February 19 as approved by the Conservation Commission. He said notification had been sent not only to abutters within 100 feet (as required) but to abutters within 300 feet, as a courtesy. Planning Board Chair Roger Lipton stated that the hearing will continue and that the board will vote on this issue before the hearing ends.

Tony Wonseski introduced Mark Stignecki, also of SVE Associates, as well as Julie Beauchemin and Jack Curry, both of Nexamp, Inc. While electronically projecting project plans onto the meeting room's screen, Mr. Wonseski pointed out the A/R 1 and A/R 2 locations and stated that the solar panels were not scheduled to be built in the A/R 1 zone. He said they had consulted with wetland scientists as required by the Wetlands Protection Act, and that the only areas involved are a large floodplain by the Mill River and two wet meadow locations which have been used to grow hay. There are special regulations for Flood Zone A locations, he said, and they won't build there; the Conservation Commission will visit the wet meadow areas to determine their classification. They are also consulting with the Natural Heritage Program about species of concern, and realize that there is an aquifer overlay district area which has special town protections.

Mr. Wonseski used the page 2 overlay to show where proposed parts of the project would be installed. He explained that a 15 ft gravel access road will run from Chestnut Plain Road to the solar array, and that this road will be built in the A/R 1 zone, noting that this is allowed. The road will be built wider during the construction phase, he said, and will be narrowed once construction is finished. The panels themselves, he said, will only be installed outside the boundaries of all areas that must be avoided. He pointed out the location of the equipment pad. The panels will be enclosed by a wire farm fence lifted 6 inches above the ground to allow for small animal travel, he said. An access box will be installed for safety, he said.

Page 3 showed the grading plan. About traffic, Mr. Wonseski said that the installation would be monitored 24 hours a day, seven days a week, and that pickup trucks would need to use the access road four times a year or so. Woody shrubs and evergreen shrubs will be planted for screening. In connection with the shrubs, there was a brief discussion about the need to ensure their effectiveness and also about the need to replace the dead plantings that are failing to screen the solar installation on Christian Lane. Asked about soil removal, Mr. Wonseski said not soil will be removed from the panel array area.

There was a discussion about the poles and wires/cables needed to connect the facility to the electrical grid. It was explained that 4-5 poles would be installed at the entrance of the access road – Eversource's utility poles and 2-3 Nexamp poles, and that some part of the wiring would be run underground. For the other part, said Tony Wonseski, it causes less impact to the environment to dig holes and erect poles. If people prefer, he said, they could work on doing that part of the work underground as well. However, there would still be a need for some poles at the intersection end. An audience member objected that this would mean part of the project – the poles – would be built in the A/R 1 zone, and shouldn't be. Mr. Wonseski explained that it is only the solar panel array that is forbidden to be built in A/R 1, and noted that there is an apron on Chestnut Plain Road indicating where the access road is allowed to be installed.

Abutter Jon Lavallee, a lineman who said he installs utility poles for a living, brought up the type of electricity and poles required for this project. He said 3-phase will be needed and that only single-phase currently exists there. Julie Beauchemin, of Nexamp, replied that they've been told by Eversource that it is feasible to connect there. Mr. Lavallee replied that a lot of trees would have to be cut down in order to do that. He said it is 1,000 feet from the Whately Inn to the McGuffeys' house, where the plant will be built. The applicant stated that Eversource controls all of that part of the project.

Christopher Kellogg asked what type of battery would be used. Julie Beauchemin answered that it would be a Tesla mega-pack solid lithium ion battery storage unit, and that it would be safely contained. Bob Smith asked about how far the battery will be from the Whately water department wells, and was told "We'll have to plot that out". Bob noted that such batteries can catch fire and that such fires can be difficult to extinguish.

Paul McEnany mentioned that on the southern side, a stream feeding the Mill River runs almost the entire stone wall line along the property line. He asked how close the battery will be to that stream and was told that the battery would be about 280 feet from the stream and about 800 feet from the Mill River.

Meredith Morrison mentioned that her family's well is ten steps from the project site's tobacco barn and one step from the property line. She expressed concern about the expense of being forced to switch to the town's water supply if the well is contaminated. Tony Wonseski stated that the water in that area should run below the grade of her well, to the Mill River. Both agreed that the area in question often has standing water.

Roger Lipton asked Julie Beauchemin why this project includes plans for a battery unit when none of their other projects have. She explained that a battery unit stabilizes the grid in case of a grid power outage, by storing power produced by the solar panels that would ordinarily go to the grid. Also, she said, the Commonwealth of Massachusetts now pays developers to include battery storage. Roger asked for payment amounts but no figures were available. Roger asked which state agency make the payments. Ms. Beauchemin replied that the money comes from the Department of Energy Resources, adding that it is not profit, but enables the developer to build the project.

Members of the audience questioned the wisdom of choosing this particular location for a facility with a battery, since this part of town is historic and scenic, and includes wetlands, wells, and an aquifer.

Roger then mentioned that upgrades have been required for solar project poles now existing on Christian Lane. He asked whether the same thing might eventually be necessary for this project's poles. The project's representatives were unable to answer Roger's questions about poles in sufficient detail, and suggested an electrical engineer would be necessary for that. Roger stated that he wants an electrical engineer from Nexamp to come before the board, and Julie Beauchemin replied, "OK".

Bob Smith raised the need to hold more than one meeting with safety personnel and firefighters. He noted a recent big fire in Phoenix that took tons of water to extinguish, and added that some fires involving battery acid cannot be put out with water.

It was noted that Dr. Neal Abram had sent a letter to the board about large solar batteries and the questions that come with them, mentioning heavy metals and other chemicals, specifically selenium, that can leach out with normal use.

Tony Wonseski listed some of the contents of the application package, including the interconnect agreement, noise study, lease agreement, operations and maintenance plan, decommissioning and surety plan, and stated that the installation will produce no dust, fumes, or irradiation.

Asked about what will occupy the approximately 15.5 acres of the site, Mr. Wonseski said the project will fill about 6.3 acres and the 4,350 solar panels will take up 5.3 acres of that. Regarding panel height, he said the panels are of the tilting type whose height will be less than the 25' limit. He also noted that the project will be visible to a person standing on the edge of the road and looking down, so they plan to screen it with a stockade fence. Ann Lomeli remarked that they would need a 50' fence to hide the panels. Several audience members commented that in winter, they can see all the way to the McGuffey house from their own houses.

Christopher Kellogg stated that there is a requirement that a 1-line and 3-line electrical drawing be supplied along with the interconnect agreement, and that the drawing is missing. He also asked whether the battery discharge would be metered separately. Julie Beauchemin replied that they would have to check on the answer to that questions and get back to him.

Debra Carney noted the possibility that the system's electrical lines may need to be upgraded on top of the poles for this project as well, and asked what, exactly, is deficient. Julie Beauchemin replied that Eversource must study the project and let them know. Bob Smith asked why the board would want to approve something that may later turn out to cause *more* damage to Chestnut Plain Road. Tony Wonseski replied that Eversource has not yet supplied answers to a number of questions because Eversource only studies projects whose details have already been substantially decided, since it would not be financially feasible for Eversource to spend its resources on doing its part of the studies beforehand.

Fred Orloski commented that there are three other solar projects pending that the selectboard hasn't approved. He described the poles and the large transformers on top of them.

Abutter Jon Lavallee again raised the matter of only single-phase service being available at the site, stating again that the project will need 3-phase. Currently, he said, 3-phase service ends at the Whately Inn. Now, he said, the poles in the area are 35' or 40'. New poles for additional 3-phase service will be have to be 45' (with 39' exposed). Each of these poles will require a 10' buffer area around it, which will require cutting down some mature trees along Chestnut Plain Road.

Abutter Christopher Kellogg noted that three addresses appear in this project's paperwork and asked why. Tony Wonseski replied that there is no physical address for the actual project site yet, because the project needs a building permit before it can get a street address number. Mr. Kellogg stated his opinion that more study is necessary before anything is approved, in order to know what the town would be agreeing to.

An audience member suggested that if this project were a gas-fired power plant instead of a solar power plant, it would be considered a manufacturing facility. Roger Lipton replied that we haven't held that view in the past, but that doesn't mean that we couldn't in the future.

A house builder in the audience pointed out that he is able to get information from energy companies about what is needed for the houses he builds, and wondered why Nexamp can't do the same. Bob Smith asked Julie Beauchemin why her company can't present the project and then say, "and if we do this, here is what is going to have to happen from the Whately Inn to the project site". He posed the question, "If you're going to have to destroy the town to connect to the grid, what's the point of doing it?"

Pete Gauthier, of Westhampton, asked for clarification about the state's incentive money, and was told that there is no incentive money for batteries if no power is being put out. In answer to a question from the audience, it was stated that the tax benefit to Whately from the project would be just under \$10,000 per year. Some in the audience expressed surprise that the amount was not greater.

Meredith Morrison stated that she bought her house at 168 Chestnut Plain Road from the McGuffeys 16 months ago. If the project goes through, she said, she and all of her neighbors will never be able to sell their homes for what they paid for them, because the houses are modest and their worth is in the view. She referred to the Whately Bylaws' 11 points naming what "shall not" be affected by projects like this. Bob Smith responded sympathetically about the loss of beautiful views, but also noted the people who argue that we *must* do *something* about the climate crisis or we will all be in deep trouble.

When asked whether the energy produced by the power plant would be used in Whately, Julie Beauchemin explained that the energy would go to the grid. People in Whately, she said, would be able to get a 10% discount off the cost of the power they used, as shown on their electricity bills. Put another way, she said, people would pay Nexamp 10% less than they were paying Eversource.

Ann Lomeli read several paragraphs from notes she had brought, and spoke in favor of a moratorium on additional solar projects.

It was noted that the Planning Board's site plan review for this project is scheduled for March 24, and Roger Lipton said he felt that the ZBA special permit review should come after the site plan review. If he were the Planning Board, he said, he would view this application as being incomplete, adding that he, too, is very concerned about the big trees. He noted that most of the questions are Planning Board items that really need to be answered before the ZBA can judge the project. He asked when the Conservation Commission is scheduled to walk the property and Tony Wonseski said they would do that in March or April. Roger also asked who the leasing party is, and was told, "Chestnut Plain Solar, LLC".

Christopher Kellogg returned to the question of fire protection. Tony Wonseski answered that if there is a fire, the plant would probably be allowed to burn. "They've never run lines to combat a fire", he said, adding that most fire departments would choose to let the fire burn.

After failing to find a signed interconnect agreement anywhere in the application package, Roger asked, "Is there any indication Eversource has *signed* an agreement to connect this project?" Tony Wonseski and Julie Beauchemin both said no, that Eversource never signs the document at this stage.

Roger moved to deem the application incomplete. Bob seconded, and the motion was approved unanimously. Roger announced “application denied” and explained that the applicant had a 20-day right of appeal.

At 8:40 pm Roger adjourned the meeting, adding that because of the decision there was no longer any need to vote on the notification issue raised at the beginning of the hearing.

The board decided not to write its decision that night. Roger will report back to the board as to the crafting of the decision.

Documents Reviewed (kept in the ZBA files)

1. A set if plans dated 18-DEC-19, prepared by SVE Associates of Brattleboro, VT, signed by Anthony Wonseski, Jr..and headed:

SPECIAL PERMIT AND SITE PLAN REVIEW FOR:
CHESTNUT PLAIN SOLAR, LLC.
164 CHESTNUT PLAIN ROAD, WHATELY, MA

APPLICANT:
CHESTNUT PLAIN SOLAR, LLC
101 SUMMER STREET, 2ND FLOOR
BOSTON, MA 02110

SOLAR DEVELOPER:
NEXAMP, INC.
101 SUMMER STREET, 2ND FLOOR
BOSTON, MA 02110

2. A letter to the Whately Zoning Board of Appeals, dated February 4, 2020, from Dr. Neal B.Abraham

Mary McCarthy
Secretary
Zoning Board of Appeals
Town of Whately, MA