

Planning Board

Meeting Minutes

September 26th, 2023

6:00 p.m.

Members present: Tom Delasco, Kate McNulty-Vaughn, Jim Harwood, Pam Kueber (remote)

Absent with notification: Susan Lyman

Others: Lori Robbins, for owner of 90 East Street

Documents Available at Meeting: 8-22-23 Meeting Minutes for PB, Planning Board Minutes 9-12-23 Draft, 8-24 One Solar KMV, Proposed Ground Mounted Solar Bylaw TGD 9-24-23, Street Setback and Lot Line Setback Terminology, Street and Lot Line Setback Terminology Changes

1. Form A:

- 90 East Street, presented by Lori Robbins—Lori explained that Carolyn Butler is dividing land from her parcel, to convey to the other parcel she is selling. She explained that the two existing parcels were already endorsed by the Planning Board, and had been recorded at the Registry. Lori indicated the lots conform with the requirements of the Subdivision Control Act to determine it an Approval Not Required—the lots with homes meet frontage, size and access requirements. KMV moved to approve the plan as presented; JH approved; PK abstained; TD approved; KMV approved.

2. Approval of Minutes:

- **8/22/23**—KMV moved to accept the minutes of 8/22 as revised; PK seconded. TD, KMV, K approved; JH abstained.
- **9/12/23**—PK moved to approve; KMV seconded; TD yes, PK yes, KMV yes. JH abstained.

3. Finalize Solar Zoning Bylaw, recommend to Special Town Meeting and Public Hearing

Discussion of change to Section 6.1.8 of the Zoning Bylaw to clarify that rooftop installations are a by-right appurtenance. PK moved to bring specific change (Section 6.1.8) to November Town Meeting and public hearing, TD seconded. The amendment is:

6.1.8. Maximum Height/Number of Stories Restrictions

Maximum building or structure height restrictions shall not apply to chimneys, water towers, skylights, **roof-mounted solar arrays**, and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy. The Board of Appeals may allow greater height and more stories when permitting Planned Unit Office, Great Estates, Gateway Mixed Use Developments, and uses located in the Commercial Zone. In no instance shall height, not including

exemptions as stated in Section 6.1.1, exceed 50 feet and the number of stories exceed four (4).

TD—aye
PK—aye
JH—aye
KMV—aye

Discussion of actual Solar Zoning Bylaw

Tom explained there were two versions—his version, and KMV’s version.

TD had changed the definition of a large-scale solar installation to be a minimum size of four acres land coverage (building coverage), reasoning that this would be an installation currently about 1 megawatt, which is the minimum developers are looking for. In addition, that it was the role of zoning to regulate use of land, not megawatt output (and such) of facilities. KMV agreed with this land-based perspective. PK continued to support KW output definitions, which she believes are common throughout Massachusetts.

PK expressed concern that new SSGM definition as written could result in a three-acre solar array in the denser residential zones. Group thought this would be a low risk given that we have included a requirement that an array be no larger than the principal dwelling on the lot most lots have a residence on them.

The group discussed the pros and cons of a variety of approaches including defining by kilowatts produced, by lot size minimum, by lot (building) coverage maximum.

Settled on a change to make definitions of SSGM vs LGSM be “minimum acreage required/lot size minimum”, with SSGMs being defined as on lots 4 acres or less and LSGMs, 4 acres or more.

Flagged question for Town Counsel Joel Bard—would this be adequate to comply with solar exemption language in Zoning Act?

The group discussed whether Large-Scale-Ground-Mounted (LSGM) arrays should be by right, by Special Permit, or prohibited in the R-3A zone. TD had changed the Table of Uses to make them by right with his thinking being that we have many acres in this zone, which has minimum zoning of 3 acres. KMV noted there are iconic viewsheds in the R-3A zone, particularly around Undermountain Road. She is worried because site plan approval would not let the Zoning Board say no. TD thought the large lot areas in the R-3A make it feasible, though.

PK noted that in a recent meeting Town Planner Gwen Miller had given good reasons to keep it a “NO” in the R-3A – important nature corridors, lots of land in conservation, iconic historic viewsheds, as well as steep rocky soil. JH, PK and KMV agreed it should stay “N”-not permitted, TD agreed to this.

Agreed to keep C-1A and C-3A as “YES” for LGSMS, subject to site plan review.

Discussed whether LGSMS should be exempt from the maximum building coverage requirements in 6.1.1, which is how the bylaw is presently written. PK said this is a policy decision. With discussion, it was agreed that it was equitable to treat solar array installations like other Structures and have them subject to 6.1.1 like any other Structure, especially in Residential Zones. This change will be made.

It was pointed out that now that 6.1.1. building coverage maximum would be required, that would mean lot sizes in the R-1A zone (the principal zone where we are expanding our Use Table to allow for coverage) would need to be minimum 20 acres. It was agreed to ask the Town Planner to do a GIS map to ensure that there are enough parcels that could meet this requirement and allow for ample opportunity for LSGM solar in Lenox.

Other changes agreed to:

- Discussed where to put Table of Uses—if it should be integrated into full Schedule of Uses or keep only in solar zoning bylaw. It was agreed that Town Planner Gwen Miller could make this call.
- KMV noted in the table, there are no Special Permits indicated. But in early part of bylaw Special Permits are mentioned – amend in next version
- In Building Permit definition, change wording to “certified.”
- Agreed to change suggested by KMV to clarify that LSGM requires site plan review by Zoning Board. A building permit will be required for every project – both SSGM and LSGM..
- KMV removing site plan criteria details and instead referring to same language in 3.5, making it clear that only large scale is required to do site plan review.
- Put Site Plan Review reference in right-hand column of Use Table for LGSMS
- KMV to re-order as needed to better group LSGM requirements together.

PK moved to accept and approve solar zoning bylaw as amended at the 9/26 planning board meeting bring to public hearing and special town meeting in November. JH seconded; TD aye; KMV aye; JH aye; PK aye.

4. Signs Bylaw Amendments to Zoning Bylaw

Ariel Smith indicated the sign group thought the ACLU letter from the last meeting was straightforward, but that they need consensus on temporary signs—time period and quantify on private, commercial properties. Does the Planning Board want to regulate the time period and quantity of temporary event signs on private, commercial properties?

Ariel recommended limiting event signs to one sign per event not related to your business, and having temporary event signs be subject to the existing regulations.

PK was opposed to an unlimited number of temporary event signs at a business.

They moved on to covering the location of signs. The signs team had prepared language revisions to reduce confusion about a street line and a lot line; they also prepared diagram indicating the street line and lot line relative to right-of-way.

Political signs—should not be in RoW.

Signs team to compare agricultural bylaw signs standard with document from sign group.
Agree to go back to signs after November Special Town Meeting.

The meeting was adjourned at 8:37 p.m.